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| **Tab 1** | **SB 668** by **Burgess;** Similar to H 00283 Storage and Disposal of Prescription Drugs and Sharps |

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| **Tab 2** | **SB 890** by **Yarborough;** Similar to H 01421 Improving Screening for and Treatment of Blood Clots |

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| **Tab 3** | **SB 182** by **Calatayud;** Tax Credits for Charitable Contributions |

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| **Tab 4** | **SB 762** by **Berman;** Identical to H 00627 Preventing the Spread of Avian Influenza |

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| **Tab 5** | **SB 942** by **Burton;** Compare to H 00485 Invalid Restrictive Covenants in Health Care |

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| **Tab 6** | **SPB 7018** by **HP;** OGSR/Parental Consent Requirements Before Terminating a Pregnancy |

**The Florida Senate**

# COMMITTEE MEETING EXPANDED AGENDA

**HEALTH POLICY**
**Senator Burton, Chair**
**Senator Harrell, Vice Chair**

**MEETING DATE:** Tuesday, March 11, 2025
**TIME:** 1:30—3:30 p.m.
**PLACE:** *Pat Thomas Committee Room,* 412 Knott Building

**MEMBERS:** Senator Burton, Chair; Senator Harrell, Vice Chair; Senators Berman, Calatayud, Davis, Gaetz, Leek, Osgood, Passidomo, and Trumbull

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|---|---|---|---|
| 1 | **SB 668**<br>Burgess<br>(Similar H 283) | Storage and Disposal of Prescription Drugs and Sharps; Requiring the Department of Health and the Department of Environmental Protection to conduct a study of the safe collection and proper disposal of sharps; establishing the collection methods to be considered in conducting the study; authorizing the departments to work or contract with counties, municipalities, and private entities; requiring the departments to submit a specified report to the Governor and the Legislature by a certain date; providing requirements for establishments that store, warehouse, or hold certain prescription drugs solely for the purpose of destruction, etc.<br><br>HP 03/11/2025<br>AHS<br>FP | |
| 2 | **SB 890**<br>Yarborough<br>(Similar H 1421) | Improving Screening for and Treatment of Blood Clots; Requiring the Department of Health to establish, or contract to establish, a statewide registry for a specified purpose; providing that certain personal identifying information is confidential and exempt from public records requirements, with exceptions; requiring certain licensed facilities to arrange for the rendering of appropriate medical attention for persons at risk for certain conditions; revising requirements for certain annual inservice training for certified nursing assistants employed by nursing home facilities, etc.<br><br>HP 03/11/2025<br>AHS<br>FP | |

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|---|---|---|---|
| 3 | **SB 182**<br>Calatayud | Tax Credits for Charitable Contributions; Providing a credit against oil and gas production taxes under the Home Away From Home Tax Credit beginning on a specified date; providing a credit against sales taxes payable by direct pay permitholders under the Home Away From Home Tax Credit beginning on a specified date; providing a credit against the corporate income tax under the Home Away From Home Tax Credit beginning on a specified date; providing a credit against excise taxes on certain alcoholic beverages under the Home Away From Home Tax Credit beginning on a specified date, etc.<br><br>HP 03/11/2025<br>FT<br>AP | |
| 4 | **SB 762**<br>Berman<br>(Identical H 627) | Preventing the Spread of Avian Influenza; Creating the Be Ready Task Force within the Department of Health for a specified purpose; requiring the task force to develop specified recommendations; providing for dissolution of the task force, etc.<br><br>HP 03/11/2025<br>AHS<br>FP | |
| 5 | **SB 942**<br>Burton<br>(Compare H 485) | Invalid Restrictive Covenants in Health Care; Specifying that certain restrictive covenants in employment agreements relating to certain licensed physicians are not supported by a legitimate business interest; declaring that such restrictive covenants are void and unenforceable, etc.<br><br>HP 03/11/2025<br>CM<br>RC | |
| | Consideration of proposed bill: | | |
| 6 | **SPB 7018** | OGSR/Parental Consent Requirements Before Terminating a Pregnancy; Amending provisions relating to an exemption from public records requirements for certain information that could identify a minor petitioning a court to waive parental consent requirements before terminating a pregnancy; deleting the scheduled repeal of the exemption, etc. | |
| | Other Related Meeting Documents | | |

**The Florida Senate**

# BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Health Policy

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| BILL: | SB 668 |
| INTRODUCER: | Senator Burgess |
| SUBJECT: | Storage and Disposal of Prescription Drugs and Sharps |
| DATE: | March 10, 2025 |
| REVISED: | |

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|---|---|---|---|---|
| 1. | Smith | Brown | HP | **Pre-meeting** |
| 2. | | | AHS | |
| 3. | | | FP | |

## I. Summary:


SB 668 exempts establishments[1] that store, warehouse, or hold certain prescription drugs or certain controlled substances solely for the purpose of destruction, from security, storage, and handling requirements of the Florida Drug and Cosmetic Act in s. 499.0121, F.S. Instead, under the bill, such establishments must *only* secure the establishment, maintain specified records of drug locations, and comply with federal law. As a result, such establishments would no longer need to obtain a Restricted Rx Drug Distributor – Destruction permit from the Department of Business and Professional Regulation (DBPR).

The bill also requires the Department of Health (DOH), in partnership with the Department of Environmental Protection (DEP), to conduct a study of the safe collection and proper disposal of sharps used by individuals to self-administer prescription drugs at home. The DOH and the DEP would be required to submit a report on their findings with recommendations to the Governor and Legislature by July 1, 2026. The DOH and the DEP may contract with private entities and work with counties and municipalities that wish to participate in the study.

For the 2025-2026 fiscal year, the bill provides a nonrecurring appropriation of $200,000 to the DOH and the DEP from the Solid Waste Management Trust Fund to conduct the study and submit the report.

The bill provides an effective date of July 1, 2025.


[11] Section 499.003(18), F.S. "Establishment" means a place of business which is at one general physical location and may extend to one or more contiguous suites, units, floors, or buildings operated and controlled exclusively by entities under common operation and control. Where multiple buildings are under common exclusive ownership, operation, and control, an intervening thoroughfare does not affect the contiguous nature of the buildings. For purposes of permitting, each suite, unit, floor, or building must be identified in the most recent permit application.

## II. Present Situation:

### Federal Food and Drug Laws

The federal Food, Drug, and Cosmetic Act (FD&C Act), codified in Title 21 of the United States Code, provides the foundation for the regulation of food, drugs, medical devices, and cosmetics. Enacted in 1938 and administered by the Food and Drug Administration (FDA), the FD&C Act establishes the legal structure for ensuring the safety, efficacy, and security of drugs and medical products.[2]

Over time, the FD&C Act has been amended to address emerging public health challenges, including drug abuse and environmental concerns. One of the most significant expansions came with the Controlled Substances Act (CSA) of 1970, which established a legal framework for regulating potentially addictive or dangerous drugs, including their classification (scheduling), distribution, and disposal.[3]

While the FDA plays a crucial role in drug approval and safety monitoring, the Drug Enforcement Administration (DEA) is the primary agency responsible for enforcing the CSA. The DEA regulates the manufacturing, distribution, prescribing, and disposal of controlled substances, ensuring that these drugs are used for legitimate medical purposes while preventing diversion, abuse, and environmental harm.

#### *Disposal of Controlled Substances under 21 C.F.R Part 1317*

The DEA has developed regulations to enforce the CSA, such as 21 C.F.R Part 1317. This regulation establishes the federal regulatory framework for the disposal of controlled substances, ensuring that these substances are handled securely, preventing diversion, misuse, and environmental harm. The regulation is structured into three distinct subparts – Subpart A, Subpart B, and Subpart C – each governing different aspects of controlled substance disposal.

Subpart A applies to DEA registrants, including manufacturers, distributors, reverse distributors, researchers, hospitals, and pharmacies, which are entities authorized to handle controlled substances for commercial, medical, or research purposes. This subpart requires registrants to ensure that controlled substances are disposed of in a way that renders them non-retrievable, preventing any possibility of misuse or recovery. To achieve this, disposal methods such as incineration or chemical destruction must be employed in accordance with DEA regulations and environmental laws. Additionally, under Subpart A, registrants must maintain comprehensive logs documenting how, when, and by whom the substances were destroyed.

Subpart B, in contrast, addresses the disposal of controlled substances by ultimate users, referring to individuals who legally possess prescribed controlled substances for personal medical use. Recognizing the risks posed by unused, expired, or unwanted prescription medications, including substance abuse, accidental ingestion, and environmental pollution, this

[2] U.S. Food & Drug Administration, *Part II: 1938, Food, Drug, Cosmetic Act* (last updated Nov. 27, 2018), *available at:* https://www.fda.gov/MedicalDevices/ProductsandMedicalProcedures/HomeHealthandConsumer/ConsumerProducts/Sharps/default.htm, (last visited Mar. 9, 2025).
[3] United States Drug Enforcement Administration, *The Controlled Substances Act, available at*: *https://www.dea.gov/drug-information/csa* (last visited Mar. 9, 2025).

section provides safe disposal options for the public. DEA-registered collectors, which may include pharmacies, hospitals, and law enforcement agencies, are authorized to facilitate disposal through three primary methods of collection:

- Collection receptacles – These are secure, tamper-resistant containers placed in authorized locations, such as pharmacies or hospitals, where individuals can deposit unused or expired medications. The design and placement of these receptacles must ensure that collected substances are protected from unauthorized access.
- Mail-back programs – Registered collectors may offer prepaid, pre-addressed packages that allow individuals to send controlled substances to an authorized disposal facility. This method provides convenience while maintaining security, as the packaging must be designed to prevent unauthorized retrieval.
- Take-back events – Law enforcement agencies, often in collaboration with other organizations, may conduct periodic collection events to allow the public to safely dispose of controlled substances. These events must be carefully managed to ensure the secure handling and transportation of the collected substances.

These collection systems are designed to prevent unauthorized access while allowing for convenient disposal by the general public. Unlike registrants under Subpart A, ultimate users are not required to maintain records. A crucial aspect of the regulation pertains to the security and management of collected substances. Once a controlled substance has been deposited in a collection receptacle or received through a mail-back program, it may not be retrieved or resold. Collectors are responsible for ensuring that all substances are rendered non-retrievable, meaning they must be destroyed in a manner that prevents their use, recovery, or reconstruction. Disposal methods must comply with federal, state, and local environmental regulations to minimize ecological impact.

A key distinction between Subpart A and Subpart B is the level of security and procedural responsibility imposed on the parties involved. Subpart A requires strict internal handling, documentation, and supervision by DEA registrants, ensuring that controlled substances in commercial and medical settings are never improperly diverted. Subpart B, on the other hand, shifts the focus to public accessibility, establishing a safe framework for individuals to dispose of their medications without contributing to public health risks or environmental hazards.

Subpart C further expands the regulatory scope by governing the role of reverse distributors and law enforcement agencies in controlled substance disposal. Reverse distributors are specialized DEA-registered entities that manage the collection, return, and destruction of controlled substances on behalf of manufacturers, wholesalers, and pharmacies. This subpart specifies the procedural and security measures required when transferring controlled substances to reverse distributors for final disposal. It also includes provisions for law enforcement agencies, which play a critical role in community disposal initiatives, such as drug take-back programs. Subpart C ensures that when controlled substances are transferred to a reverse distributor or law enforcement agency, they are properly documented and securely destroyed, reinforcing DEA oversight and accountability.

Together, the three subparts of 21 C.F.R Part 1317 are designed to create a comprehensive disposal framework that addresses the needs of both regulated industry stakeholders and the general public.

**Prescription Drug Distribution Laws and Regulation in Florida**

The Florida Drug and Cosmetic Act is codified in ch. 499, F.S. The purpose of the Act is to safeguard public health by preventing fraud, adulteration, misbranding, and false advertising in the preparation, manufacture, repackaging, or distribution of drugs, devices, and cosmetics within the state.[4] The Act assigns the responsibility of regulating its provisions to the DBPR.[5] The DBPR conducts regular inspections and investigations to monitor compliance.[6] Violations can result in fines, civil penalties, injunctions, product seizures, or referrals for criminal prosecution.[7]

Entities engaged in the manufacturing, repackaging, or distribution of prescription drugs, medical gases, active pharmaceutical ingredients, medical devices, and cosmetics are required to obtain appropriate permits from the DBPR.[8]

***Prescription Drug Wholesale Distribution and Establishments***

All prescription drug wholesale distributors in the state of Florida are required to comply with the storage and recordkeeping standards found in s. 499.0121, F.S., and rules adopted thereunder. These standards apply to all prescription drugs in the possession of the distributors.

These standards, among other things, require permitted establishments to be of suitable size and construction, secure from unauthorized entry and equipped with a security system with a well-lit perimeter, free from infestation, and have provisions to store drugs at appropriate temperatures. Furthermore, records must be maintained with the following information: the address of the source of the drug, the date the drug was received, and the date and method of disposition of the drug.

Rule 61N-1.023, F.A.C., was promulgated in 1996, and last amended in 2001, to implement the requirements of s. 499.0121, F.S.

Rule 61N-1.023(4), F.A.C., sets out the specific requirements for Restricted Rx Drug Distributor Destruction permits. This rule exempts destruction permittees from temperature storage requirements, establishes that quantities of drugs may be recorded as estimates for destruction purposes, and mandates the creation of a Certificate of Destruction to memorialize the weight of the drugs destroyed, the method of destruction, and the time, date, and location of the destruction.

***Pharmacy Regulation in Florida***

While the Florida Drug and Cosmetic Act addresses the broader spectrum of drug and cosmetic regulation, the practice of pharmacy is specifically governed by the Florida Pharmacy Act, detailed in ch. 465, F.S. The Florida Board of Pharmacy, operating under the Department of

[4] Section 499.002(1), F.S.
[5] Section 499.002(2), F.S.
[6] Section 499.051, F.S.
[7] Sections 499.062 and 499.066, F.S.
[8] Section 499.001, F.S.

Health, is responsible for the licensure, monitoring, and education of pharmacy professionals. The Board ensures that pharmacists, pharmacy interns, and pharmacy technicians meet the necessary qualifications and adhere to established standards.

**Controlled Substances in Florida Law**

Chapter 893, F.S., is known as the Drug Abuse Prevention and Control Act. The Act aligns with federal law to manage the manufacture, distribution, prescribing, and dispensing of substances that have potential for abuse or dependency. Florida imposes strict penalties for violations related to controlled substances, including unauthorized possession, distribution, or trafficking. Penalties vary based on the substance's schedule and the offense's nature, ranging from fines to significant prison sentences.

***Schedules of Controlled Substances***

Section 893.03, F.S., categorizes controlled substances into five schedules (I-V) based on their potential for abuse, accepted medical use, and safety considerations:

- Schedule I: Substances with a high potential for abuse, no accepted medical use in the United States, and a lack of accepted safety under medical supervision. Examples include heroin and cannabis.[9]
- Schedule II: Substances with a high potential for abuse, accepted medical uses with severe restrictions, and a risk of severe psychological or physical dependence. Examples include oxycodone and methamphetamine.[10]
- Schedule III: Substances with a lower potential for abuse than Schedules I and II, accepted medical uses, and moderate to low risk of dependence. Examples include anabolic steroids and products containing less than 90 milligrams of codeine per dosage unit.[11]
- Schedule IV: Substances with a low potential for abuse relative to Schedule III, accepted medical uses, and limited risk of dependence. Examples include alprazolam (Xanax) and diazepam (Valium).[12]
- Schedule V: Substances with a low potential for abuse relative to Schedule IV, accepted medical uses, and limited risk of dependence. These often include preparations containing limited quantities of certain narcotics, such as cough preparations with less than 200 milligrams of codeine per 100 milliliters.[13]

***Regulations on the Prescribing and Dispensing of Controlled Substances***

Over time, Florida has enacted multiple laws to mitigate misuse and improve patient safety in the prescribing and dispensing controlled substances. The following requirements are of note:

- Health care practitioners authorized to prescribe controlled substances must complete a board-approved two-hour continuing education course on prescribing these substances.[14] This course must be taken with each licensure renewal.[15]

[9] Section 893.03(1), F.S.
[10] Section 893.03(2), F.S.
[11] Section 893.03(3), F.S.
[12] Section 893.03(4), F.S.
[13] Section 893.03(5), F.S.
[14] Section 456.0301, F.S.
[15] *Id.*

- Prescriptions for controlled substances must include detailed information such as the patient's full name and address, the prescriber's full name, address, and federal controlled substance registry number, the drug name, strength, quantity, and usage directions.[16] Schedule II substances require a written or electronic prescription and cannot be refilled.[17]
- For acute pain, prescriptions for Schedule II opioids are limited to a three-day supply, with a seven-day supply permissible under specific conditions documented by the prescriber.[18]
- Pharmacists must verify the validity of prescriptions for controlled substances before dispensing. They are required to report dispensed controlled substances to the Prescription Drug Monitoring Program (PDMP), known as E-FORCSE, no later than the close of the next business day.[19]

**Safe Sharps Disposal**

Improperly discarded sharps pose a serious risk for injury and infection to sanitation workers and the community. For purposes of biomedical waste, the term "sharps" mean those biomedical wastes which as a result of their physical characteristics are capable of puncturing, lacerating, or otherwise breaking the skin when handled.[20] Examples of sharps include:

- Needles: hollow needles used to inject drugs or medications under the skin.
- Syringes: devices used to inject medication into or withdraw fluid from the body.
- Lancets, also called finger stick devices: instruments with a short, two-edged blade used to get drops of blood for testing.
- Auto injectors: includes epinephrine and insulin pens or syringes with pre-filled fluid medication designed to be self-injected into the body.
- Infusion sets: tubing systems with a needle used to deliver drugs to the body.
- Connection needles/set: needles that connect to a tube used to transfer fluids in and out of the body.[21]

Used needles and other sharps pose a dangerous risk to people and animals if not properly disposed of, as they can spread disease and cause injury. The most common infections are Hepatitis B (HBV), Hepatitis C (HCV), and HIV.[22]

[16] Section 893.04(1)(c), F.S.
[17] Section 893.04(1)(f), F.S.
[18] Section 456.44(5), F.S.
[19] Section 893.055, F.S. *See also* Florida Dep't of Health, *E-FORCSE, available at:* https://www.floridahealth.gov/statistics-and-data/e-forcse/ (last visited Mar. 9, 2025).
[20] Section 381.0098(d), F.S.
[21] United States Food and Drug Administration, *Safely Using Sharps* (last updated Nov. 11, 2021), *available at:* https://www.fda.gov/MedicalDevices/ProductsandMedicalProcedures/HomeHealthandConsumer/ConsumerProducts/Sharps/default.htm, (last visited Mar. 9, 2025).
[22] *Id.*

The FDA recommends a two-step process for properly disposing of used needles and other sharps:[23]

Step 1: Place all needles and other sharps in a sharps disposal container immediately after they have been used. This will reduce the risk of needle sticks, cuts, and punctures from loose sharps. Sharps disposal containers should be kept out of reach of children and pets.

Overfilling a sharps disposal container increases the risk of accidental needle-stick injury. When your sharps disposal container is about three-quarters (3/4) full, follow your community guidelines for getting rid of the container (Step 2, below). DO NOT reuse sharps disposal containers.

Step 2: Dispose of used sharps disposal containers according to your community guidelines. Sharps disposal guidelines and programs vary depending on where you live. Check with your local trash removal services or health department to see which of the following disposal methods are available in your area:

- *Drop Box or Supervised Collection Sites*
  You may be able to drop off your sharps disposal containers at appropriate chosen collection sites, such as doctors' offices, hospitals, pharmacies, health departments, medical waste facilities, and police or fire stations. Services may be free or have a nominal fee.
- *Household Hazardous Waste Collection Sites*
  You may be able to drop off your sharps disposal containers at local public household hazardous waste collection sites. These are sites that also commonly accept hazardous materials such as household cleaners, paints and motor oil.
- *Mail-Back Programs*
  You may be able to mail certain FDA-cleared sharps disposal containers to a collection site for proper disposal, usually for a fee. Fees vary, depending on the size of the container. Follow the container manufacturer's instructions because mail-back programs may have specific requirements on how to label sharps disposal containers.
- *Residential Special Waste Pick-Up Services*
  Your community may provide special waste pick-up services that send trained special waste handlers to collect sharps disposal containers from your home. These services are typically fee-based and many have special requirements for the types of containers they will collect. Some programs require customers to call and request pick-ups, while others offer regular pick-up schedules.[24]

Many Florida counties and municipalities have their own sharps disposal programs through their respective county health departments[25] with strategically located sites where residents can drop

[23] U.S. Food and Drug Administration, *Best Way to Get Rid of Used Needles and Other Sharps, available at:* https://www.fda.gov/medical-devices/safely-using-sharps-needles-and-syringes-home-work-and-travel/best-way-get-rid-used-needles-and-other-sharps (last visited Mar. 9, 2025).
[24] *Id.*
[25] Florida Department of Health, *Needle Collection Programs, available at:* https://www.floridahealth.gov/Environmental-Health/biomedical-waste/needle-collection-programs.html (last visited Mar. 9, 2025).

off a container filled with needles and at many sites receive a new container at minimal or no cost.[26]

## III. Effect of Proposed Changes:

**Section 1** of the bill requires the DOH, in partnership with the DEP, to conduct a study of the safe collection and proper disposal of sharps used by individuals to self-administer prescription drugs in home settings. The bill requires the departments to assess the risk of using sharps in home settings to patients, health care professionals, caregivers, family members, and waste industry workers. The study must consider the safeness of sharps disposal by mail and sharps disposal at drop-off locations in both rural and urban environments. The bill authorizes the departments to contract with private entities and work with counties or municipalities that wish to participate in the study. The bill requires the departments to submit a report on their findings with recommendations to the Governor, President of the Senate, and Speaker of the House of Representatives by July 1, 2026.

**Section 2** of the bill amends s. 499.0121, F.S., to create a new subsection (1), which establishes an exemption from requirements of this section, except for new subsection (7), for schedule IV and schedule V controlled substance and non-scheduled prescription drugs; or prescription drugs collected under a program authorized by 21 C.F.R. s. 1317, Subpart B, relating to the "Disposal of Controlled Substances Collected from Ultimate Users and Other Non-Registrants;" which are stored, warehoused, or held solely for the purpose of destruction.

A new subsection (7) is created to provide that establishments that store, warehouse, or hold schedule IV and schedule V controlled substance and non-scheduled prescription drugs; or prescription drugs collected under a program authorized by 21 C.F.R. s. 1317, Subpart B, solely for the purpose of destruction, shall *only* be required to:

- Secure the establishment that is used for activities related to destruction against:
  - Unauthorized entry; or
  - Unauthorized access to the prescription drugs when establishment personnel are not present.
- Record the address at which the prescription drugs were destroyed and maintain either:
  - Records of the address of the location from which the prescription drugs were collected and a formulary or description of that location's prescription drugs; or
  - Documentation that the prescription drugs were collected under a program authorized by 21 C.F.R. s. 1317, Subpart B.
- Operate in compliance with applicable federal laws and regulations.

The use of the word "only" would limit the rulemaking authority of the DBPR. The first paragraph of s. 499.0121, F.S., authorizes DBPR to adopt rules to implement this section as necessary to protect the public health, safety, and welfare. Such rules must include, but are not limited to, requirements for the storage and handling of prescription drugs and for the establishment and maintenance of prescription drug distribution records. While DBPR may adopt rules relating to new subsection (7), it may not burden such establishments with any additional

[26] Florida Dep't of Health, *Home Management of Sharps, available at:* https://www.floridahealth.gov/Environmental-Health/biomedical-waste/home-management-of-sharps.html (last visited Mar. 9, 2025).

requirements, because of the bill's use of the word "only." Existing additional requirements in rule and the requirement to obtain the appropriate Restricted Rx Drug Distributor Permits from the DBPR, would no longer apply to such establishments.

**Sections 3-10** of the bill amend ss. 465.022, 499.003, 499.0051, 499.01, 499.012, 499.01201, 499.05, and 499.067, F.S., respectively, to conform cross-references to changes made to s. 499.0121, F.S., in section 2 of the bill.

**Section 11** of the bill provides an effective date of July 1, 2025.

## 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:

Section 6, Article III of the State Constitution requires every law to "embrace but one subject and matter properly connected therewith, and the subject shall be briefly expressed in the title." The subject as expressed in the title circumscribes the one subject to which the act must relate. SB 668 is titled "An act relating to storage and disposal of prescription drugs and sharps," but the disposal of sharps in a home setting and the storage and disposal of prescription drugs by permitted prescription drug establishments are two different types of disposal regulated by different state agencies for different safety purposes. While the bill does regard the subject of disposal, it is unclear whether a court would find that the bill embraces "but one subject" or two.

## V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill provides, for the 2025-2026 fiscal year, that the nonrecurring sum of $200,000 from the Solid Waste Management Trust Fund is appropriated to the DOH and the DEP to implement the study and submit the report on the safe collection and proper disposal of sharps used by individuals to self-administer prescription drugs in the home.

The bill is likely to have an indeterminate operational impact on DBPR staff. The DBPR may need to amend rules adopted under s. 499.0121, F.S., including Rule 61N-1.023, F.A.C., to conform to changes made to that section by section 2 of bill, which could temporarily result in an increased workload. The exemption created by section 2 of the bill may result in a decreased workload for DBPR staff as they may no longer issue as many Restricted Prescription Drug Distributor Permits.

## VI. Technical Deficiencies:

It is unclear which prescription drugs and controlled substances are intended to be captured by the exceptions created in lines 78-81 and in lines 186-192 of the bill. Section 893.03, F.S., is the schedule of controlled substances while 21 C.F.R. s. 1317, subpart B pertains solely to controlled substances. An amendment should be considered to clarify the intent of section 2 of the bill.

## VII. Related Issues:

It is unclear whether the bill is appropriating dollars to the DOH or the DEP since the bill's language seeks to make a single appropriation to two departments jointly.

## VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 499.0121, 465.022, 499.003, 499.0051, 499.01, 499.012, 499.01201, 499.05, and 499.067.

## 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 Burgess

23-00484A-25 2025668__

A bill to be entitled

An act relating to storage and disposal of prescription drugs and sharps; requiring the Department of Health and the Department of Environmental Protection to conduct a study of the safe collection and proper disposal of sharps; requiring the departments to make a specified assessment of the use of sharps in the home; establishing the collection methods to be considered in conducting the study; authorizing the departments to work or contract with counties, municipalities, and private entities; requiring the departments to submit a specified report to the Governor and the Legislature by a certain date; providing for an appropriation; amending s. 499.0121, F.S.; providing applicability; providing requirements for establishments that store, warehouse, or hold certain prescription drugs solely for the purpose of destruction; amending ss. 465.022, 499.003, 499.0051, 499.01, 499.012, 499.01201, 499.05, and 499.067, F.S.; conforming cross-references; providing an effective date.

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

Section 1. (1) The Department of Health, in partnership with the Department of Environmental Protection, shall conduct a study of the safe collection and proper disposal of sharps, as defined in s. 381.0098(2)(d), Florida Statutes, used by individuals to self-administer prescription drugs in the home.



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

(a) The departments shall assess the risk of injury to patients, health care professionals, caregivers, family members, and waste industry workers from the use of sharps in the home.

(b) In conducting the study, the departments shall consider at least the following two methods of safe collection in both rural and urban environments:

1. Sharps disposal by mail.

2. Sharps disposal at drop-off locations such as pharmacies or other health-care-related sites.

(2) The departments may work or contract with counties and municipalities and private entities that wish to participate in the study.

(3) By July 1, 2026, the departments shall submit a report of their findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report must contain, at a minimum, all of the following:

(a) An evaluation of the sharps collection methods, including consideration of cost, convenience, safety, consumer preference, and effectiveness.

(b) Information regarding the current local government sharps collection methods practiced in this state, recommendations for improving existing sharps collection programs, and whether such programs have been updated or adopted based on the findings of the study.

(c) Recommendations for safely collecting sharps used by individuals to self-administer prescription drugs in the home, including the estimated costs associated with statewide adoption of one or more sharps collection methods.

(d) Information regarding current sharps collection methods practiced by health care and home health agency professionals performing services in a patient's home, and any recommendations for improving current practices.

(4) For the 2025-2026 fiscal year, the nonrecurring sum of $200,000 from the Solid Waste Management Trust Fund is appropriated to the Department of Health and the Department of Environmental Protection to implement this section.

Section 2. Section 499.0121, Florida Statutes, is amended to read:

499.0121 Storage and handling of prescription drugs; recordkeeping.—

(1) AUTHORITY TO PRESCRIBE RULES.—

(a) The department shall adopt rules to implement this section as necessary to protect the public health, safety, and welfare. Such rules shall include, but not be limited to, requirements for the storage and handling of prescription drugs and for the establishment and maintenance of prescription drug distribution records.

(b) This section does not apply to Schedule IV, Schedule V, and nonscheduled prescription drugs pursuant to s. 893.03, or prescription drugs collected under a program authorized by 21 C.F.R. s. 1317, subpart B, which are stored, warehoused, or held solely for the purpose of destruction, except as provided in subsection (7).

(2)~~(1)~~ ESTABLISHMENTS.—An establishment at which prescription drugs are stored, warehoused, handled, held, offered, marketed, or displayed must:

(a) Be of suitable size and construction to facilitate



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

cleaning, maintenance, and proper operations;

(b) Have storage areas designed to provide adequate lighting, ventilation, temperature, sanitation, humidity, space, equipment, and security conditions;

(c) Have a quarantine area for storage of prescription drugs that are outdated, damaged, deteriorated, misbranded, or adulterated, or that are in immediate or sealed, secondary containers that have been opened;

(d) Be maintained in a clean and orderly condition; and

(e) Be free from infestation by insects, rodents, birds, or vermin of any kind.

(3) ~~(2)~~ SECURITY.—

(a) An establishment that is used for wholesale drug distribution must be secure from unauthorized entry.

1. Access from outside the premises must be kept to a minimum and be well controlled.

2. The outside perimeter of the premises must be well lighted.

3. Entry into areas where prescription drugs are held must be limited to authorized personnel.

(b) An establishment that is used for wholesale drug distribution must be equipped with:

1. An alarm system to detect entry after hours; however, the department may exempt by rule establishments that only hold a permit as prescription drug wholesale distributor-brokers; and

2. A security system that will provide suitable protection against theft and diversion. When appropriate, the security system must provide protection against theft or diversion that is facilitated or hidden by tampering with computers or

electronic records.

(c) Any vehicle that contains prescription drugs must be secure from unauthorized access to the prescription drugs in the vehicle.

(4)~~(3)~~ STORAGE.—All prescription drugs shall be stored at appropriate temperatures and under appropriate conditions in accordance with requirements, if any, in the labeling of such drugs, or with requirements in the official compendium.

(a) If no storage requirements are established for a prescription drug, the drug may be held at "controlled" room temperature, as defined in the official compendium, to help ensure that its identity, strength, quality, and purity are not adversely affected.

(b) Appropriate manual, electromechanical, or electronic temperature and humidity recording equipment, devices, or logs must be used to document proper storage of prescription drugs.

(c) The recordkeeping requirements in subsection (8) ~~(6)~~ must be followed for all stored prescription drugs.

(5)~~(4)~~ EXAMINATION OF MATERIALS AND RECORDS.—

(a) Upon receipt, each outside shipping container must be visually examined for identity and to prevent the acceptance of contaminated prescription drugs that are otherwise unfit for distribution. This examination must be adequate to reveal container damage that would suggest possible contamination or other damage to the contents.

(b) Each outgoing shipment must be carefully inspected for identity of the prescription drug products and to ensure that there is no delivery of prescription drugs that have expired or been damaged in storage or held under improper conditions.

(c) The recordkeeping requirements in subsection (8) ~~(6)~~ must be followed for all incoming and outgoing prescription drugs.

(d) Upon receipt, a wholesale distributor must review records required under this section for the acquisition of prescription drugs for accuracy and completeness, considering the total facts and circumstances surrounding the transactions and the wholesale distributors involved.

(6)~~(5)~~ RETURNED, DAMAGED, OR OUTDATED PRESCRIPTION DRUGS.—

(a)1. Prescription drugs that are outdated, damaged, deteriorated, misbranded, or adulterated must be quarantined and physically separated from other prescription drugs until they are destroyed or returned to their supplier. A quarantine section must be separate and apart from other sections where prescription drugs are stored so that prescription drugs in this section are not confused with usable prescription drugs.

2. Prescription drugs must be examined at least every 12 months, and drugs for which the expiration date has passed must be removed and quarantined.

(b) Any prescription drugs of which the immediate or sealed outer containers or sealed secondary containers have been opened or used must be identified as such and must be quarantined and physically separated from other prescription drugs until they are destroyed or returned to the supplier.

(c) If the conditions under which a prescription drug has been returned cast doubt on the drug's safety, identity, strength, quality, or purity, the drug must be destroyed or returned to the supplier, unless examination, testing, or other investigation proves that the drug meets appropriate standards

of safety, identity, strength, quality, and purity. In determining whether the conditions under which a drug has been returned cast doubt on the drug's safety, identity, strength, quality, or purity, the wholesale distributor must consider, among other things, the conditions under which the drug has been held, stored, or shipped before or during its return and the conditions of the drug and its container, carton, or labeling, as a result of storage or shipping.

(d) The recordkeeping requirements in subsection (8) ~~(6)~~ must be followed for all outdated, damaged, deteriorated, misbranded, or adulterated prescription drugs.

(7) DESTRUCTION OF SCHEDULE IV, SCHEDULE V, AND NONSCHEDULED PRESCRIPTION DRUGS OR PRESCRIPTION DRUGS COLLECTED UNDER A PROGRAM AUTHORIZED BY 21 C.F.R. S. 1317, SUBPART B.—An establishment that stores, warehouses, or holds Schedule IV, Schedule V, and nonscheduled prescription drugs pursuant to s. 893.03, or prescription drugs collected under a program authorized by 21 C.F.R. s. 1317, subpart B, solely for the purpose of arranging for their destruction, shall only be required to:

(a) Secure the establishment that is used for activities related to destruction against unauthorized entry or unauthorized access to the prescription drugs when establishment personnel are not present.

(b) Maintain records of the address of the location from which the prescription drugs were collected and a formulary or description of that location's prescription drugs, or documentation that the prescription drugs were collected under a program authorized by 21 C.F.R. s. 1317, subpart B, and the

address at which the prescription drugs were destroyed.

(c) Operate in compliance with applicable federal laws and regulations.

(8) ~~(6)~~ RECORDKEEPING.—The department shall adopt rules that require keeping such records of prescription drugs, including active pharmaceutical ingredients, as are necessary for the protection of the public health.

(a) The following persons must maintain business records that include the information specified in paragraph (b):

1. Persons permitted or required to be permitted under this chapter to engage in the manufacture, repackaging, or distribution of active pharmaceutical ingredients or prescription drugs.

2. Persons other than those set forth in subparagraph 1. that engage in the receipt of active pharmaceutical ingredients or prescription drugs.

(b) Business records for persons specified in paragraph (a) must include:

1. The name and address of the seller, and the Florida permit number of the seller if such seller is not exempt from Florida permitting requirements, of the active pharmaceutical ingredient or prescription drug.

2. The address of the location the active pharmaceutical ingredient or prescription drug was shipped from.

3. The distribution date of the active pharmaceutical ingredient or prescription drug.

4. The name, strength, and quantity, and the National Drug Code if such code has been assigned, of the distributed active pharmaceutical ingredient or prescription drug.

5. The name and Florida permit number of the person that purchased the active pharmaceutical ingredient or prescription drug.

6. The financial data, including the unit type and unit price, for the distributions involving active pharmaceutical ingredients or prescription drugs.

7. The date and method of disposition of the active pharmaceutical ingredient or prescription drug.

(c) Each manufacturer or repackager of medical devices, over-the-counter drugs, or cosmetics must maintain business records that include:

1. The name and address of the seller or transferor of the product.

2. The address of the location the product was shipped from.

3. The date of the sale or distribution of the product.

4. The name and quantity of the product involved.

5. The name and address of the person who purchased the product.

(d) Persons permitted, or required to be permitted, under this chapter to engage in the manufacture, repackaging, or distribution of active pharmaceutical ingredients or prescription drugs; or the manufacture or repackaging of medical devices, over-the-counter drugs, and cosmetics; must establish, maintain, or have the capability to create a current inventory of the active pharmaceutical ingredients, prescription drugs, over-the-counter drugs, cosmetics, and devices at an establishment where activities specified in this paragraph are undertaken and must be able to produce such inventory for

inspection by the department within 2 business days.

(e) Business records required to be kept pursuant to this section, and that are kept at the inspection site or can be immediately retrieved by computer or other electronic means, must be readily available for authorized inspection during the retention period. Records kept at a central location outside of this state which are not electronically retrievable must be made available for inspection within 2 working days after a request by an authorized official of a federal, state, or local law enforcement agency. Records maintained at a central location within this state must be maintained at an establishment that is permitted pursuant to this part, and such records must be readily available for inspection.

(f) Records required to be kept pursuant to this subsection must be maintained as specified for a period of not less than 6 years from the date of disposition of the active pharmaceutical ingredients, prescription drugs, over-the-counter drugs, medical devices, or cosmetics.

(g) To the extent that prescription drugs are also products as defined in the federal act, as amended, and the information required by the business records requirements of this section are also included in the tracking and tracing requirements of the federal act, as amended, and departmental rules, the manufacturer, wholesale distributor, repackager, or dispenser must follow both the requirements of the federal act, as amended, and departmental rules.

(9)~~(7)~~ PRESCRIPTION DRUG PURCHASE LIST.—Each wholesale distributor, except for a manufacturer, shall annually provide the department with a written list of all wholesale distributors

and manufacturers from whom the wholesale distributor purchases prescription drugs. A wholesale distributor, except a manufacturer, shall notify the department not later than 10 days after any change to either list.

(10)~~(8)~~ WRITTEN POLICIES AND PROCEDURES.—Wholesale distributors must establish, maintain, and adhere to written policies and procedures, which must be followed for the receipt, security, storage, inventory, and distribution of prescription drugs, including policies and procedures for identifying, recording, and reporting losses or thefts, and for correcting all errors and inaccuracies in inventories. Wholesale distributors must include in their written policies and procedures:

(a) A procedure whereby the oldest approved stock of a prescription drug product is distributed first. The procedure may permit deviation from this requirement, if the deviation is temporary and appropriate.

(b) A procedure to be followed for handling recalls and withdrawals of prescription drugs. Such procedure must be adequate to deal with recalls and withdrawals due to:

1. Any action initiated at the request of the Food and Drug Administration or any other federal, state, or local law enforcement or other government agency, including the department.

2. Any voluntary action by the manufacturer or repackager to remove defective or potentially defective drugs from the market; or

3. Any action undertaken to promote public health and safety by replacing existing merchandise with an improved



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product or new package design.

(c) A procedure to ensure that wholesale distributors prepare for, protect against, and handle any crisis that affects security or operation of any facility if a strike, fire, flood, or other natural disaster, or a local, state, or national emergency, occurs.

(d) A procedure to ensure that any outdated prescription drugs are segregated from other drugs and returned to the manufacturer or repackager or destroyed. This procedure must provide for written documentation of the disposition of outdated prescription drugs. This documentation must be maintained for 2 years after disposition of the outdated drugs.

(11)~~(9)~~ RESPONSIBLE PERSONS.—Wholesale distributors must establish and maintain lists of officers, directors, managers, designated representatives, and other persons in charge of wholesale drug distribution, storage, and handling, including a description of their duties and a summary of their qualifications.

(12)~~(10)~~ COMPLIANCE WITH FEDERAL, STATE, AND LOCAL LAW.—A wholesale distributor must operate in compliance with applicable federal, state, and local laws and regulations.

(a) A wholesale distributor must allow the department and authorized federal, state, and local officials to enter and inspect its premises and delivery vehicles, and to audit its records and written operating procedures, at reasonable times and in a reasonable manner, to the extent authorized by law.

(b) A wholesale distributor that deals in controlled substances must register with the Drug Enforcement Administration and must comply with all applicable state, local,

and federal laws. A wholesale distributor that distributes any substance controlled under chapter 893 must notify the department when registering with the Drug Enforcement Administration pursuant to that chapter and must provide the department with its DEA number.

(13) ~~(11)~~ SALVAGING AND REPROCESSING.—A wholesale distributor is subject to any applicable federal, state, or local laws or regulations that relate to prescription drug product salvaging or reprocessing.

(14) ~~(12)~~ SHIPPING AND TRANSPORTATION.—The person responsible for shipment and transportation of a prescription drug in a wholesale distribution may use a common carrier; its own vehicle or employee acting within the scope of employment if authorized under s. 499.03 for the possession of prescription drugs in this state; or, in the case of a prescription drug intended for domestic distribution, an independent contractor who must be the agent of the authorized seller or recipient responsible for shipping and transportation as set forth in a written contract between the parties. A person selling a prescription drug for export must obtain documentation, such as a validated airway bill, bill of lading, or other appropriate documentation that the prescription drug was exported. A person responsible for shipping or transporting prescription drugs is not required to maintain documentation from a common carrier that the designated recipient received the prescription drugs; however, the person must obtain such documentation from the common carrier and make it available to the department upon request of the department.

(15) ~~(13)~~ DUE DILIGENCE OF SUPPLIERS.—Prior to purchasing

any prescription drugs from another wholesale distributor, a prescription drug wholesale distributor, an out-of-state prescription drug wholesale distributor, or a prescription drug repackager must:

(a) Enter an agreement with the selling wholesale distributor by which the selling wholesale distributor will indemnify the purchasing wholesale distributor for any loss caused to the purchasing wholesale distributor related to the purchase of drugs from the selling wholesale distributor which are determined to be counterfeit or to have been distributed in violation of any federal or state law governing the distribution of drugs.

(b) Determine that the selling wholesale distributor has insurance coverage of not less than the greater of 1 percent of the amount of total dollar volume of the prescription drug sales reported to the department under s. 499.012(8)(g) or $500,000; however the coverage need not exceed $2 million.

(c) Obtain information from the selling wholesale distributor, including the length of time the selling wholesale distributor has been licensed in this state, a copy of the selling wholesale distributor’s licenses or permits, and background information concerning the ownership of the selling wholesale distributor, including the experience of the wholesale distributor in the wholesale distribution of prescription drugs.

(d) Verify that the selling wholesale distributor’s Florida permit is valid.

(e) Inspect the selling wholesale distributor’s licensed establishment to document that it has a policies and procedures manual relating to the distribution of drugs, the appropriate

temperature controlled environment for drugs requiring temperature control, an alarm system, appropriate access restrictions, and procedures to ensure that records related to the wholesale distribution of prescription drugs are maintained as required by law:

1. Before purchasing any drug from the wholesale distributor, and at least once each subsequent year; or

2. Before purchasing any drug from the wholesale distributor, and each subsequent year obtain a complete copy of the most recent inspection report for the establishment which was prepared by the department or the regulatory authority responsible for wholesale distributors in the state in which the establishment is located.

(16)~~(14)~~ DISTRIBUTION REPORTING.—Each prescription drug wholesale distributor, out-of-state prescription drug wholesale distributor, retail pharmacy drug wholesale distributor, manufacturer, or repackager that engages in the wholesale distribution of controlled substances as defined in s. 893.02 shall submit a report to the department of its receipts and distributions of controlled substances listed in Schedule II, Schedule III, Schedule IV, or Schedule V as provided in s. 893.03. Wholesale distributor facilities located within this state shall report all transactions involving controlled substances, and wholesale distributor facilities located outside this state shall report all distributions to entities located in this state. If the prescription drug wholesale distributor, out-of-state prescription drug wholesale distributor, retail pharmacy drug wholesale distributor, manufacturer, or repackager does not have any controlled substance distributions for the

month, a report shall be sent indicating that no distributions occurred in the period. The report shall be submitted monthly by the 20th of the next month, in the electronic format used for controlled substance reporting to the Automation of Reports and Consolidated Orders System division of the federal Drug Enforcement Administration. Submission of electronic data must be made in a secured Internet environment that allows for manual or automated transmission. Upon successful transmission, an acknowledgment page must be displayed to confirm receipt. The report must contain the following information:

(a) The federal Drug Enforcement Administration registration number of the wholesale distributing location.

(b) The federal Drug Enforcement Administration registration number of the entity to which the drugs are distributed or from which the drugs are received.

(c) The transaction code that indicates the type of transaction.

(d) The National Drug Code identifier of the product and the quantity distributed or received.

(e) The Drug Enforcement Administration Form 222 number or Controlled Substance Ordering System Identifier on all Schedule II transactions.

(f) The date of the transaction.

The department must share the reported data with the Department of Law Enforcement and local law enforcement agencies upon request and must monitor purchasing to identify purchasing levels that are inconsistent with the purchasing entity's clinical needs. The Department of Law Enforcement shall

investigate purchases at levels that are inconsistent with the purchasing entity's clinical needs to determine whether violations of chapter 893 have occurred.

(17)~~(15)~~ DUE DILIGENCE OF PURCHASERS.—

(a) Each prescription drug wholesale distributor, out-of-state prescription drug wholesale distributor, and retail pharmacy drug wholesale distributor must establish and maintain policies and procedures to credential physicians licensed under chapter 458, chapter 459, chapter 461, or chapter 466 and pharmacies that purchase or otherwise receive from the wholesale distributor controlled substances listed in Schedule II or Schedule III as provided in s. 893.03. The prescription drug wholesale distributor, out-of-state prescription drug wholesale distributor, or retail pharmacy drug wholesale distributor shall maintain records of such credentialing and make the records available to the department upon request. Such credentialing must, at a minimum, include:

1. A determination of the clinical nature of the receiving entity, including any specialty practice area.

2. A review of the receiving entity's history of Schedule II and Schedule III controlled substance purchasing from the wholesale distributor.

3. A determination that the receiving entity's Schedule II and Schedule III controlled substance purchasing history, if any, is consistent with and reasonable for that entity's clinical business needs.

(b) A wholesale distributor must take reasonable measures to identify its customers, understand the normal and expected transactions conducted by those customers, and identify those

transactions that are suspicious in nature. A wholesale distributor must establish internal policies and procedures for identifying suspicious orders and preventing suspicious transactions. A wholesale distributor must assess orders for more than 7,500 unit doses of any one controlled substance in any one month to determine whether the purchase is reasonable. In making such assessments, a wholesale distributor may consider the purchasing entity's clinical business needs, location, and population served, in addition to other factors established in the distributor's policies and procedures. A wholesale distributor must report to the department any regulated transaction involving an extraordinary quantity of a listed chemical, an uncommon method of payment or delivery, or any other circumstance that the regulated person believes may indicate that the listed chemical will be used in violation of the law. The wholesale distributor shall maintain records that document the report submitted to the department in compliance with this paragraph.

(c) A wholesale distributor may not distribute controlled substances to an entity if any criminal history record check for any person associated with that entity shows that the person has been convicted of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction related to controlled substances, the practice of pharmacy, or the dispensing of medicinal drugs.

Section 3. Paragraph (b) of subsection (3) of section 465.022, Florida Statutes, is amended to read:

465.022 Pharmacies; general requirements; fees.—

(3) Any person or business entity, before engaging in the

operation of a pharmacy, shall file with the board a sworn application on forms provided by the department. For purposes of this section, any person required to provide fingerprints under this subsection is an affiliated person within the meaning of s. 465.023(1).

(b) The department shall annually submit the fingerprints provided by the applicant to the Department of Law Enforcement for a state criminal history records check. The Department of Law Enforcement shall annually forward the fingerprints to the Federal Bureau of Investigation for a national criminal history records check. The department shall report the results of annual criminal history records checks to wholesale distributors permitted under chapter 499 for the purposes of s. 499.0121(17) ~~s. 499.0121(15)~~.

Section 4. Paragraph (b) of subsection (48) of section 499.003, Florida Statutes, is amended to read:

499.003 Definitions of terms used in this part.—As used in this part, the term:

(48) "Wholesale distribution" means the distribution of a prescription drug to a person other than a consumer or patient, or the receipt of a prescription drug by a person other than the consumer or patient, but does not include:

(b) Any of the following activities, which is not a violation of s. 499.005(21) if such activity is conducted in accordance with rules established by the department:

1. The distribution of a prescription drug among federal, state, or local government health care entities that are under common control and are authorized to purchase such prescription drug.

2. The distribution of a prescription drug or offer to distribute a prescription drug for emergency medical reasons, which may include transfers of prescription drugs by a retail pharmacy to another retail pharmacy to alleviate a temporary shortage. For purposes of this subparagraph, a drug shortage not caused by a public health emergency does not constitute an emergency medical reason.

3. The distribution of a prescription drug acquired by a medical director on behalf of a licensed emergency medical services provider to that emergency medical services provider and its transport vehicles for use in accordance with the provider's license under chapter 401.

4. The donation of a prescription drug by a health care entity to a charitable organization that has been granted an exemption under s. 501(c)(3) of the Internal Revenue Code of 1986, as amended, and that is authorized to possess prescription drugs.

5. The distribution of a prescription drug by a person authorized to purchase or receive prescription drugs to a person licensed or permitted to handle reverse distributions or destruction under the laws of the jurisdiction in which the person handling the reverse distribution or destruction receives the drug.

6. The distribution of a prescription drug by a hospital or other health care entity to a person licensed under this part to repackage prescription drugs for the purpose of repackaging the prescription drug for use by that hospital, or other health care entity and other health care entities that are under common control, if ownership of the prescription drugs remains with the

hospital or other health care entity at all times. In addition to the recordkeeping requirements of s. 499.0121(8) ~~s. 499.0121(6)~~, the hospital or health care entity that distributes prescription drugs pursuant to this subparagraph must reconcile all drugs distributed and returned and resolve any discrepancies in a timely manner.

Section 5. Subsections (15) and (16) of section 499.0051, Florida Statutes, are amended to read:

499.0051 Criminal acts.—

(15) FALSE REPORT.—Any person who submits a report required by s. 499.0121(16) ~~s. 499.0121(14)~~ knowing that such report contains a false statement commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(16) CONTROLLED SUBSTANCE DISTRIBUTION.—Any person who engages in the wholesale distribution of prescription drugs and who knowingly distributes controlled substances in violation of s. 499.0121(16) ~~s. 499.0121(14)~~ commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. In addition to any other fine that may be imposed, a person convicted of such a violation may be sentenced to pay a fine that does not exceed three times the gross monetary value gained from such violation, plus court costs and the reasonable costs of investigation and prosecution.

Section 6. Paragraph (m) of subsection (2), subsection (3), and paragraphs (a), (b), and (c) of subsection (4) of section 499.01, Florida Statutes, are amended to read:

499.01 Permits.—

(2) The following permits are established:

(m) *Limited prescription drug veterinary wholesale*

*distributor permit.*—Unless engaging in the activities of and permitted as a prescription drug manufacturer, nonresident prescription drug manufacturer, prescription drug wholesale distributor, or out-of-state prescription drug wholesale distributor, a limited prescription drug veterinary wholesale distributor permit is required for any person that engages in the distribution in or into this state of veterinary prescription drugs and prescription drugs subject to, defined by, or described by s. 503(b) of the Federal Food, Drug, and Cosmetic Act under the following conditions:

1. The person is engaged in the business of wholesaling prescription and veterinary prescription drugs to persons:

a. Licensed as veterinarians practicing on a full-time basis;

b. Regularly and lawfully engaged in instruction in veterinary medicine;

c. Regularly and lawfully engaged in law enforcement activities;

d. For use in research not involving clinical use; or

e. For use in chemical analysis or physical testing or for purposes of instruction in law enforcement activities, research, or testing.

2. No more than 30 percent of total annual prescription drug sales may be prescription drugs approved for human use which are subject to, defined by, or described by s. 503(b) of the Federal Food, Drug, and Cosmetic Act.

3. The person does not distribute in any jurisdiction prescription drugs subject to, defined by, or described by s. 503(b) of the Federal Food, Drug, and Cosmetic Act to any person

who is authorized to sell, distribute, purchase, trade, or use these drugs on or for humans.

4. A limited prescription drug veterinary wholesale distributor that applies to the department for a new permit or the renewal of a permit must submit a bond of $20,000, or other equivalent means of security acceptable to the department, such as an irrevocable letter of credit or a deposit in a trust account or financial institution, payable to the Professional Regulation Trust Fund. The purpose of the bond is to secure payment of any administrative penalties imposed by the department and any fees and costs incurred by the department regarding that permit which are authorized under state law and which the permittee fails to pay 30 days after the fine or costs become final. The department may make a claim against such bond or security until 1 year after the permittee's license ceases to be valid or until 60 days after any administrative or legal proceeding authorized in this part which involves the permittee is concluded, including any appeal, whichever occurs later.

5. A limited prescription drug veterinary wholesale distributor must maintain at all times a license or permit to engage in the wholesale distribution of prescription drugs in compliance with laws of the state in which it is a resident.

6. A limited prescription drug veterinary wholesale distributor must comply with the requirements for wholesale distributors under s. 499.0121.

7. A limited prescription drug veterinary wholesale distributor may not return to inventory for subsequent wholesale distribution any prescription drug subject to, defined by, or described by s. 503(b) of the Federal Food, Drug, and Cosmetic

Act which has been returned by a veterinarian.

8. A limited prescription drug veterinary wholesale distributor permit is not required for an intracompany sale or transfer of a prescription drug from an out-of-state establishment that is duly licensed to engage in the wholesale distribution of prescription drugs in its state of residence to a licensed limited prescription drug veterinary wholesale distributor in this state if both wholesale distributors conduct wholesale distributions of prescription drugs under the same business name. The recordkeeping requirements of s. 499.0121(8) ~~s. 499.0121(6)~~ must be followed for this transaction.

(3) A nonresident prescription drug manufacturer permit is not required for a manufacturer to distribute a prescription drug active pharmaceutical ingredient that it manufactures to a prescription drug manufacturer permitted in this state intended for research and development and not for resale or human use other than lawful clinical trials and biostudies authorized and regulated by federal law. A manufacturer claiming to be exempt from the permit requirements of this subsection and the prescription drug manufacturer purchasing and receiving the active pharmaceutical ingredient shall comply with the recordkeeping requirements of s. 499.0121(8) ~~s. 499.0121(6)~~. The prescription drug manufacturer purchasing and receiving the active pharmaceutical ingredient shall maintain on file a record of the FDA registration number; if available, the out-of-state license, permit, or registration number; and, if available, a copy of the most current FDA inspection report, for all manufacturers from whom they purchase active pharmaceutical ingredients under this section. The failure to comply with the

requirements of this subsection, or rules adopted by the department to administer this subsection, for the purchase of prescription drug active pharmaceutical ingredients is a violation of s. 499.005(14), and a knowing failure is a violation of s. 499.0051(3).

(a) The immediate package or container of a prescription drug active pharmaceutical ingredient distributed into the state that is intended for research and development under this subsection shall bear a label prominently displaying the statement: "Caution: Research and Development Only—Not for Manufacturing, Compounding, or Resale."

(b) A prescription drug manufacturer that obtains a prescription drug active pharmaceutical ingredient under this subsection for use in clinical trials and or biostudies authorized and regulated by federal law must create and maintain records detailing the specific clinical trials or biostudies for which the prescription drug active pharmaceutical ingredient was obtained.

(4)(a) A permit issued under this part is not required to distribute a prescription drug active pharmaceutical ingredient from an establishment located in the United States to an establishment located in this state permitted as a prescription drug manufacturer under this part for use by the recipient in preparing, deriving, processing, producing, or fabricating a prescription drug finished dosage form at the establishment in this state where the product is received under an approved and otherwise valid New Drug Approval Application, Abbreviated New Drug Application, New Animal Drug Application, or Therapeutic Biologic Application, provided that the application, active

pharmaceutical ingredient, or finished dosage form has not been withdrawn or removed from the market in this country for public health reasons.

1. Any distributor claiming exemption from permitting requirements pursuant to this paragraph shall maintain a license, permit, or registration to engage in the wholesale distribution of prescription drugs under the laws of the state from which the product is distributed. If the state from which the prescription drugs are distributed does not require a license to engage in the wholesale distribution of prescription drugs, the distributor must be licensed as a wholesale distributor as required by the federal act.

2. Any distributor claiming exemption from permitting requirements pursuant to this paragraph and the prescription drug manufacturer purchasing and receiving the active pharmaceutical ingredient shall comply with the recordkeeping requirements of s. 499.0121(8) ~~s. 499.0121(6)~~.

(b) A permit issued under this part is not required to distribute a prescription drug that has not been repackaged from an establishment located in the United States to an establishment located in this state permitted as a prescription drug manufacturer under this part for research and development or to a holder of a letter of exemption issued by the department under s. 499.03(4) for research, teaching, or testing.

1. Any distributor claiming exemption from permitting requirements pursuant to this paragraph shall maintain a license, permit, or registration to engage in the wholesale distribution of prescription drugs under the laws of the state from which the product is distributed. If the state from which

the prescription drugs are distributed does not require a license to engage in the wholesale distribution of prescription drugs, the distributor must be licensed as a wholesale distributor as required by the federal act.

2. All purchasers and recipients of any prescription drugs distributed pursuant to this paragraph shall ensure that the products are not resold or used, directly or indirectly, on humans except in lawful clinical trials and biostudies authorized and regulated by federal law.

3. Any distributor claiming exemption from permitting requirements pursuant to this paragraph, and the purchaser and recipient of the prescription drug, shall comply with the recordkeeping requirements of s. 499.0121(8) ~~s. 499.0121(6)~~.

4. The immediate package or container of any active pharmaceutical ingredient distributed into the state that is intended for teaching, testing, research, and development shall bear a label prominently displaying the statement: "Caution: Research, Teaching, or Testing Only – Not for Manufacturing, Compounding, or Resale."

(c) An out-of-state prescription drug wholesale distributor permit is not required for an intracompany sale or transfer of a prescription drug from an out-of-state establishment that is duly licensed as a prescription drug wholesale distributor in its state of residence to a licensed prescription drug wholesale distributor in this state, if both wholesale distributors conduct wholesale distributions of prescription drugs under the same business name. The recordkeeping requirements of s. 499.0121(8) ~~s. 499.0121(6)~~ must be followed for such transactions.

Section 7. Paragraph (p) of subsection (8) of section 499.012, Florida Statutes, is amended to read:

499.012 Permit application requirements.—

(8) An application for a permit or to renew a permit for a prescription drug wholesale distributor or an out-of-state prescription drug wholesale distributor submitted to the department must include:

(p) Documentation of the credentialing policies and procedures required by s. 499.0121(17) ~~s. 499.0121(15)~~.

Section 8. Section 499.01201, Florida Statutes, is amended to read:

499.01201 Agency for Health Care Administration review and use of statute and rule violation or compliance data.—Notwithstanding any other provision of law, the Agency for Health Care Administration may not:

(1) Review or use any violation or alleged violation of s. 499.0121(8) ~~s. 499.0121(6)~~, or any rules adopted under that section, as a ground for denying or withholding any payment of a Medicaid reimbursement to a pharmacy licensed under chapter 465; or

(2) Review or use compliance with s. 499.0121(8) ~~s. 499.0121(6)~~, or any rules adopted under that section, as the subject of any audit of Medicaid-related records held by a pharmacy licensed under chapter 465.

Section 9. Paragraphs (m) and (n) of subsection (1) of section 499.05, Florida Statutes, are amended to read:

499.05 Rules.—

(1) The department shall adopt rules to implement and enforce this chapter with respect to:

(m) Wholesale distributor reporting requirements of s. 499.0121(16) ~~s. 499.0121(14)~~.

(n) Wholesale distributor credentialing and distribution requirements of s. 499.0121(17) ~~s. 499.0121(15)~~.

Section 10. Subsections (8) and (9) of section 499.067, Florida Statutes, are amended to read:

499.067 Denial, suspension, or revocation of permit, certification, or registration.—

(8) The department may deny, suspend, or revoke a permit under this part if it finds the permittee has not complied with the credentialing requirements of s. 499.0121(17) ~~s. 499.0121(15)~~.

(9) The department may deny, suspend, or revoke a permit under this part if it finds the permittee has not complied with the reporting requirements of, or knowingly made a false statement in a report required by, s. 499.0121(16) ~~s. 499.0121(14)~~.

Section 11. This act shall take effect July 1, 2025.



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

The Florida Senate

# Committee Agenda Request

**To:** Senator Colleen Burton, Chair
Committee on Health Policy

**Subject:** Committee Agenda Request

**Date:** February 26, 2025

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I respectfully request that **Senate Bill #668**, relating to Storage and Disposal of Prescription Drugs and Sharps, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Senator Danny Burgess
Florida Senate, District 23

CC: Allen Brown, Staff Director
CC: Anhar Al-Asadi, Committee Administrative Assistant

File signed original with committee office

**The Florida Senate**

# BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Health Policy

| | |
|---|---|
| BILL: | SB 890 |
| INTRODUCER: | Senator Yarborough |
| SUBJECT: | Improving Screening for and Treatment of Blood Clots |
| DATE: | March 10, 2025 |
| REVISED: | |

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|---|---|---|---|---|
| 1. | Looke | Brown | HP | **Pre-meeting** |
| 2. | | | AHS | |
| 3. | | | FP | |

## I. Summary:


SB 890 amends and creates several sections of the Florida Statutes to:

- Specify that chronic critical illness and genetic predisposition for developing blood clots and pulmonary embolisms are chronic diseases.
- Require the Department of Health (DOH) to create a blood clot and pulmonary embolism registry (registry);
- Require specified training and protocols to screen a patient for the risk of blood clots, pulmonary embolism, or deep vein thrombosis (DVT) when the patient is admitted to a hospital or ambulatory surgical center (ASC) that provides specified services;
- Require certified nursing assistants (CNA) serving in a nursing home to receive training on recognizing the signs and symptoms of a blood clot, pulmonary embolism, or DVT and techniques for providing an emergency response;
- Require the Agency for Health Care Administration's (AHCA) rules for assisted living facilities (ALF) to include requirements for the identification of residents at risk for developing blood clots and for the treating facility's response protocols to ensure timely treatment; and
- Require the AHCA to include training on the identification of and response to residents at high risk of developing blood clots and pulmonary embolisms in the core training required for all ALF administrators.

The bill provides an effective date of July 1, 2025.


## II. Present Situation:

### Blood Clots

Blood clotting, or coagulation, is an important process that prevents excessive bleeding when a blood vessel is injured. Platelets (a type of blood cell) and proteins in plasma (the liquid part of

blood) work together to stop the bleeding by forming a clot over the injury. Typically, the human body will naturally dissolve the blood clot after the injury has healed.

Sometimes, however, blood clots form on the inside of vessels without an obvious injury or do not dissolve naturally. These situations can be dangerous and require accurate diagnosis and appropriate treatment.

Clots can occur in veins or arteries, which are vessels that are part of the body's circulatory system. While both types of vessels help transport blood throughout the body, they each function differently. Veins are low-pressure vessels that carry deoxygenated blood away from the body's organs and back to the heart. An abnormal clot that forms in a vein may restrict the return of blood to the heart and can result in pain and swelling as the blood gathers behind the clot.

DVT is a type of clot that forms in a major vein of the leg or, less commonly, in the arms, pelvis, or other large veins in the body. In some cases, a clot in a vein may detach from its point of origin and travel through the heart to the lungs where it becomes wedged, preventing adequate blood flow. This is called a pulmonary (lung) embolism and can be extremely dangerous.

It is estimated that each year DVT affects as many as 900,000 people in the United States and kills up to 100,000.[1]

***Blood Clots and Genetics***

Thrombophilia is a medical term used to describe the condition where the blood has an increased tendency to clot. There are many reasons why the blood can have this increased tendency. Thrombophilia is usually categorized into two types–acquired and inherited. In acquired thrombophilia the abnormal clotting is usually related to a specific cause, such as prolonged periods of bed rest after surgery, trauma to the leg, or having cancer. People with inherited thrombophilia tend to form clots due to a genetic predisposition inherited from their parents. People with inherited thrombophilia may have a family history of relatives with abnormal or excessive blood clotting.

Blood clotting proteins, like all proteins, are made by linking together a chain of chemicals called amino acids. The order of the amino acids in the chain make up a specific protein; this order is determined by genes. While there are a number of mutations that can cause inherited thrombophilia, the most common deoxyribose nucleic acid (DNA) mutations are named factor V Leiden and prothrombin G20210A.[2]

***Factor V Leiden***

Human bodies produce a protein called factor V that helps blood clot. However, there are certain individuals who have a DNA mutation in the gene used to make the factor V protein. These individuals are said to have the "factor V Leiden" mutation.

[1] American Society of Hematology, *Blood Clots*, available at https://www.hematology.org/education/patients/blood-clots, (last visited March 7, 2025).
[2] National Blood Clot Alliance, *The Genetics of Thrombophilia*, Elizabeth Varga, available at https://www.stoptheclot.org/about-clots/thrombophilia/genetics-of-thrombophilia/, (last visited March 7, 2025).

Normally the factor V protein is produced to help the blood clot and is produced in greater amounts after a blood vessel is damaged. The amount of factor V protein produced is controlled by other proteins, including protein C and protein S. Protein C and protein S combine to help break up factor V, thus preventing it from being reused and clotting the blood.

When a person has factor V Leiden, the mutation causes the protein to be abnormally shaped. This abnormal shape prevents it from being broken down properly by proteins C and S. Since the factor V protein is not broken down, it is left in the blood for a longer period of time and increases the tendency for clotting.

It is estimated that about five percent of Caucasians have factor V Leiden, and it is more common in individuals of European ancestry. In the United States, approximately one to two percent of African Americans, Hispanic Americans, and Native Americans also have the mutation. Factor V Leiden is rare in people of Asian decent.[3]

***Prothrombin G20210A Mutation***

All individuals make the prothrombin (also called factor two) protein that helps blood clot. However, there are certain individuals who have a DNA mutation in the gene used to make prothrombin called the prothrombin G20210A or the factor II mutation.

Normally, the prothrombin protein is produced to help the blood clot and is produced in greater amounts after a blood vessel is damaged. People who have a mutation in the prothrombin gene produce more prothrombin protein than is normal. Since there is more of the prothrombin protein in the blood, this increases the tendency for clotting.

A change in the prothrombin gene is present in two to four percent of Caucasians and is more common in individuals of European ancestry. In the United States, approximately 0.4 percent of African Americans also have the mutation. Prothrombin G20210A mutation is rare in other demographic groups.

**Deep Vein Thrombosis**

DVT occurs when a blood clot (thrombus) forms in one or more of the deep veins in the body, usually in the legs. Deep vein thrombosis can cause leg pain or swelling. Sometimes there are no noticeable symptoms.

Persons can get DVT if they have certain medical conditions that affect how the blood clots. A blood clot in the legs can also develop if a person doesn't move for a long time, e.g. sitting for an extended period while traveling a long distance or when a person is on bed rest due to surgery, an illness, or an accident.

Deep vein thrombosis can be serious because blood clots in the veins can break loose. The clots can then travel through the bloodstream and get stuck in the lungs, blocking blood flow (pulmonary embolism). When DVT and pulmonary embolism occur together, it's called venous thromboembolism (VTE).

[3] Id.

Many things can increase the risk of developing DVT. The more risk factors are involved, the greater the risk of DVT. Risk factors for DVT include:

- **Age.** Being older than 60 increases the risk of DVT, but DVT can occur at any age.
- **Lack of movement.** Muscle contractions help blood flow. Sitting for a long time, such as when driving or flying, increases the risk of DVT. So does long-term bed rest, which may result from a lengthy hospital stay or a medical condition such as paralysis.
- **Injury or surgery.** Injury to the veins or surgery can increase the risk of blood clots.
- **Pregnancy.** Pregnancy increases the pressure in the veins in the pelvis and legs. The risk of blood clots from pregnancy can continue for up to six weeks after a baby is born. People with an inherited clotting disorder are especially at risk.
- **Birth control pills (oral contraceptives) or hormone replacement therapy.** Both can increase the blood's ability to clot.
- **Being overweight or obese.** Being overweight increases the pressure in the veins in the pelvis and legs.
- **Smoking.** Smoking affects how blood flows and clots, which can increase the risk of DVT.
- **Cancer.** Some cancers increase substances in the blood that cause the blood to clot. Some types of cancer treatment also increase the risk of blood clots.
- **Heart failure.** Heart failure increases the risk of DVT and pulmonary embolism.
- **Inflammatory bowel disease.** Crohn's disease or ulcerative colitis increase the risk of DVT.
- **A personal or family history of DVT or pulmonary embolism.** A person with a family history of these conditions might be at greater risk of developing DVT.
- **Genetics.** Some people have DNA changes that cause the blood to clot more easily.[4]

## III. Effect of Proposed Changes:

SB 890 amends and creates multiple sections of the Florida Statutes to make changes related to blood clots.

**Section 1** of the bill amends the list of chronic diseases[5] in s. 385.102, F.S., to add "chronic critical illness" and "genetic predisposition for developing blood clots and pulmonary embolisms." The bill also updates the term "chronic obstructive lung disease" to "chronic obstructive pulmonary disease."

**Section 2** of the bill creates s. 385.213, F.S., to require the DOH to establish, or contract with a recognized medical organization in Florida and its affiliated institutions, to establish a statewide registry to ensure that blood clot and pulmonary embolism reports are maintained and available for use in the course of research for the purpose of reducing morbidity and mortality. The bill specifies that hospitals are immune from liability for having provided information to the DOH for inclusion in the registry.

[4] Mayo Clinic, *Deep Vein Thrombosis*, June 11, 2022, available at https://www.mayoclinic.org/diseases-conditions/deep-vein-thrombosis/symptoms-causes/syc-20352557, (last visited March 7, 2025).
[5] The list contains diseases that must be included as chronic diseases under ch. 385, F.S., but is not exclusive.

The bill requires each facility licensed under chs. 395[6] or 408,[7] F.S., to report to the DOH the following information for each instance of a blood clot, pulmonary embolism, or DVT identified in a patient:

- The number of blood clots, pulmonary embolisms, and deep vein thromboses identified and diagnosed.
- The age of the patient.
- The zip code of the patient.
- The sex of the patient.
- Whether the patient is a resident of a licensed nursing home or assisted living facility.
- Whether the blood clot, pulmonary embolism, or deep vein thrombosis was fatal.
- How the diagnosis was made, such as by using imaging modalities.
- The treatment that was recommended for the blood clot, pulmonary embolism, or deep vein thrombosis, as applicable.

The bill allows the DOH, by rule, to further specify what information is to be provided.

The bill specifies that the DOH, or the contractor operating the registry, may use or publish information from the registry only for the purpose of advancing medical research or medical education in the interest of reducing morbidity or mortality, except that a de-identified summary of the information contained in the registry may be released for general publication.

The bill also creates a public records exemption, making the records confidential and exempt, for personal identifying information held in the registry, except that:

- Such information may be released with the express written consent of the person or his or her legally authorized representative;
- The DOH or the contractor may contact individuals for the purpose of epidemiologic investigation and monitoring, provided such information that is confidential is not further disclosed; and
- The DOH may exchange data that includes personal identifying information with any other governmental agency or the contractor for the purpose of medical or scientific research, provided such governmental agency or contractor does not further disclose information that is confidential and exempt.

The bill specifies that any funds appropriated for implementation of the registry must be used for establishing, administering, compiling, processing, and providing biometric and statistical analyses to the reporting facilities. Funds may also be used to ensure the quality and accuracy of the information reported and to provide management information to the reporting facilities.

The bill allows the DOH, by rule, to classify facilities for purposes of reports made to the registry and specify the content and frequency of the reports. In classifying facilities, the DOH must exempt certain facilities from reporting blood clot and pulmonary embolism information that was previously reported to the DOH or retrieved from existing state reports made to the DOH or the AHCA.

[6] Hospitals and ASCs.
[7] The list of facility types licensed pursuant to ch. 408, F.S., is in s. 408.802, F.S.

The bill also exempts any facility from reporting to the registry if the primary purpose of the facility is to provide psychiatric care.

**Section 3** of the bill creates s. 395.3042, F.S., to require hospitals and ASCs that provide emergency room services, orthopedic services, pregnancy services, or cancer treatment, to arrange for the rendering of appropriate medical attention for persons at risk for blood clots, pulmonary embolisms, or DVT as follows:

- Upon admission to such a facility, a patient must be assessed for risk of blood clots, pulmonary embolisms, and DVT using a nationally recognized risk assessment tool.
- The training of all staff in the facility must include continuing education annually on how to recognize a blood clot, pulmonary embolism, or DVT.
- The facility must have established protocols for staff to ensure that patients diagnosed with a life-threatening blood clot, pulmonary embolism, or DVT are assessed for various treatment options.
- The facility must have an established policy in place requiring a follow-up for all orthopedic patients who have undergone lower extremity or pelvic surgery, to occur within 60 days after discharge.
- The facility must have procedures in place to provide ongoing blood clot risk assessment for patients who are at high risk of developing blood clots, are pregnant, or are being treated for cancer.

**Section 4** amends s. 400.211, F.S., to require that a nursing home's in-service training for CNAs must include recognizing signs and symptoms of a blood clot, pulmonary embolism, or DVT and techniques for providing emergency response. The bill requires that the identification of signs and symptoms of a blood clot and how to assist with a response protocol must be included in the required training a CNA must have in order for a registered nurse to delegate duties to him or her.

**Sections 5 and 6** amend ss. 429.41 and 429.52, F.S., to require rules regulating ALFs to include standards for the identification of residents who are at risk for developing blood clots and the treating facility's response protocols to help ensure access to timely treatment, and to require core training for ALF administrators to include identification of and responding to residents at high risk of developing blood clots and pulmonary embolisms.

## IV. Constitutional Issues:

### A. Municipality/County Mandates Restrictions:

None.

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

Article I, Sectio 24(c), of the Florida Constitution requires that any law enacting a new public records exemption contain "only exemptions from [public records and meetings requirements], and shall relate to one subject." Additionally, any law enacting a new public records exemption "shall state with specificity the public necessity justifying the exemption."

Section 2 of SB 890 creates a new public records exemption for records held in the blood clot and pulmonary embolism registry. However, this public records exemption is created within a bill that contains other items and does not relate only to that public records exemption. Additionally, the bill does not specifically state the public necessity for the public records exemption. As such, it is possible that the public records exemption created by the bill may be found to be unconstitutionally enacted, should the bill be enacted.

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:

SB 890 may have an indeterminate negative fiscal impact on hospitals and other facilities that are require to report specified information to the registry created by the bill or adopt new training, policies, protocols, or procedures as required by the bill.

C. Government Sector Impact:

SB 890 may have an indeterminate fiscal impact on the DOH related to establishing and maintaining the registry required by the bill.

## VI. Technical Deficiencies:

None.

## VII. Related Issues:

**Section 2** of SB 890 creates the blood clot and pulmonary embolism registry within the DOH. The bill requires that all facilities licensed with the AHCA under ch. 408, F.S., provide specified information to the DOH. However, the bill only exempts hospitals from liability for providing such information. It may be advisable to extend liability protection to all facility types that are required to provide information under the bill. Additionally, it is unclear how some facilities

licensed under ch. 408, F.S., such as nurse registries and home medical equipment providers, would be able to comply with the requirement to provide the specified information. The bill allows the DOH, by rule, to classify and exempt certain facilities from the bill's reporting requirements, but it is unclear whether this rulemaking authority would be sufficient to allow the DOH to exempt other types of facilities not listed in the bill.

**Section 2** of the bill also specifies that any funds appropriated for the implementation of the registry must be used for "establishing, administering, compiling, processing, and providing biometric and statistical analyses to the reporting facilities." Given the large quantity and the multiple types of facilities required to report, it is unclear whether such reporting would be practical.

**Section 3** of the bill requires that certain hospitals and ASCs provide specified training and create specified policies, protocols, and procedures related to blood clots, pulmonary embolisms, and DVT. However, the bill does not specify the time frame in which such training, policies, protocols, and procedures must be adopted. It may be advisable to allow hospitals and ASCs a specific amount of time to put such training, policies, protocols, and procedures in place prior to requiring them.

## VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 385.102, 400.211, 429.41, and 429.52.

This bill creates the following sections of the Florida Statutes: 385.213 and 395.3042.

## 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 Yarborough

4-01449-25 2025890__

A bill to be entitled

An act relating to improving screening for and treatment of blood clots; amending s. 385.102, F.S.; revising legislative findings under the Chronic Diseases Act; creating s. 385.213, F.S.; requiring the Department of Health to establish, or contract to establish, a statewide registry for a specified purpose; requiring certain licensed facilities to report specified information to the department for inclusion in the registry; specifying limitations on the use and publication of information from the registry; providing that certain personal identifying information is confidential and exempt from public records requirements, with exceptions; specifying requirements for the use of certain appropriated funds; authorizing the department, by rule, to classify facilities for purposes of certain reporting requirements; requiring the department to exempt certain facilities from certain reporting requirements; providing applicability; creating s. 395.3042, F.S.; requiring certain licensed facilities to arrange for the rendering of appropriate medical attention for persons at risk for certain conditions; specifying requirements for the manner in which such facilities must provide such medical attention, including admission, training, and practice policies; amending s. 400.211, F.S.; revising requirements for certain annual inservice training for certified nursing assistants employed by nursing home



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facilities; revising training requirements for certain certified nursing assistants who may be delegated tasks in nursing home facilities; amending s. 429.41, F.S.; revising minimum standards for the care of residents in assisted living facilities; amending s. 429.52, F.S.; revising requirements for the core competency test for administrators of assisted living facilities; providing an effective date.

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

Section 1. Subsection (1) of section 385.102, Florida Statutes, is amended to read:

385.102 Legislative intent.—It is the finding of the Legislature that:

(1) Chronic diseases exist in high proportions among the people of this state. These chronic diseases include, but are not limited to, heart disease, hypertension, diabetes, renal disease, chronic obstructive pulmonary disease, cancer, chronic critical illness, and genetic predisposition for developing blood clots and pulmonary embolisms ~~chronic obstructive lung disease~~. These diseases are often interrelated, and they directly and indirectly account for a high rate of death and illness.

Section 2. Section 385.213, Florida Statutes, is created to read:

385.213 Blood clot and pulmonary embolism registry.—

(1) The Department of Health shall establish, or contract with a recognized medical organization in this state and its



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affiliated institutions to establish, a statewide registry to ensure blood clot and pulmonary embolism reports required under this section are maintained and available for use in the course of research for the purpose of reducing morbidity and mortality, and liability of any kind or character for damages or other relief may not arise or be enforced against any hospital by reason of having provided such information or material to the department for inclusion in the registry.

(2) Each facility licensed under chapter 395 or chapter 408 shall report to the department for inclusion in the registry all of the following information, and as further specified by department rule, for each instance of a blood clot, pulmonary embolism, or deep vein thrombosis identified in a patient:

(a) The number of blood clots, pulmonary embolisms, and deep vein thromboses identified and diagnosed.

(b) The age of the patient.

(c) The zip code of the patient.

(d) The sex of the patient.

(e) Whether the patient is a resident of a licensed nursing home or assisted living facility.

(f) Whether the blood clot, pulmonary embolism, or deep vein thrombosis was fatal.

(g) How the diagnosis was made, such as by using imaging modalities.

(h) The treatment that was recommended for the blood clot, pulmonary embolism, or deep vein thrombosis, as applicable.

(3) The department or contractor operating the registry may use or publish information from the registry only for the purpose of advancing medical research or medical education in

the interest of reducing morbidity or mortality, except that a summary of such entries without any personal identifying information may be released for general publication. Information which discloses or could lead to the disclosure of personal identifying information of any person whose condition or treatment has been reported and studied is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution as specified in s. 119.0712(1), except that:

(a) Such information may be released with the express written consent of the person or his or her legally authorized representative;

(b) The department or the contractor may contact individuals for the purpose of epidemiologic investigation and monitoring, provided such information that is confidential under this section is not further disclosed; and

(c) The department may exchange data that includes personal identifying information with any other governmental agency or the contractor for the purpose of medical or scientific research, provided such governmental agency or contractor does not further disclose information that is confidential and exempt.

(4) Funds appropriated for implementation of this section must be used for establishing, administering, compiling, processing, and providing biometric and statistical analyses to the reporting facilities. Funds may also be used to ensure the quality and accuracy of the information reported and to provide management information to the reporting facilities.

(5) The department may, by rule, classify facilities for



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purposes of reports made to the registry and specify the content and frequency of the reports. In classifying facilities, the department must exempt certain facilities from reporting blood clot and pulmonary embolism information that was previously reported to the department or retrieved from existing state reports made to the department or the Agency for Health Care Administration.

(6) This section does not apply to any facility whose primary function is to provide psychiatric care to its patients.

Section 3. Section 395.3042, Florida Statutes, is created to read:

395.3042 Screening for blood clots, pulmonary embolisms, and deep vein thrombosis in licensed facilities.—Any licensed facility that provides emergency room services, orthopedic services, pregnancy services, or cancer treatment shall arrange for the rendering of appropriate medical attention for persons at risk of blood clots, pulmonary embolisms, or deep vein thrombosis in the following manner:

(1) Upon admission to such a facility, a patient must be assessed for risk of blood clots, pulmonary embolisms, and deep vein thrombosis using a nationally recognized risk assessment tool.

(2) The training of all staff in the facility must include continuing education annually on how to recognize a blood clot, pulmonary embolism, or deep vein thrombosis.

(3) The facility shall have established protocols for staff to ensure that patients diagnosed with a life-threatening blood clot, pulmonary embolism, or deep vein thrombosis are assessed for various treatment options.

(4) The facility shall have an established policy in place requiring a follow-up for all orthopedic patients who have undergone lower extremity or pelvic surgery, to occur within 60 days after discharge.

(5) The facility shall have procedures in place to provide ongoing blood clot risk assessment for patients who are at high risk of developing blood clots, are pregnant, or are being treated for cancer.

Section 4. Subsection (4) and paragraph (a) of subsection (5) of section 400.211, Florida Statutes, are amended to read:

400.211 Persons employed as nursing assistants; certification requirement; qualified medication aide designation and requirements.—

(4) When employed by a nursing home facility for a 12-month period or longer, a nursing assistant, to maintain certification, shall submit to a performance review every 12 months and must receive regular inservice education based on the outcome of such reviews. The inservice training must:

(a) Be sufficient to ensure the continuing competence of nursing assistants and must meet the standard specified in s. 464.203(7);

(b) Include, at a minimum:

1. Techniques for assisting with eating and proper feeding;

2. Principles of adequate nutrition and hydration;

3. Techniques for assisting and responding to the cognitively impaired resident or the resident with difficult behaviors;

4. Techniques for caring for the resident at the end-of-life; ~~and~~



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5. Recognizing changes that place a resident at risk for pressure ulcers and falls; and

6. Recognizing signs and symptoms of a blood clot, pulmonary embolism, or deep vein thrombosis and techniques for providing an emergency response; and

(c) Address areas of weakness as determined in nursing assistant performance reviews and may address the special needs of residents as determined by the nursing home facility staff.

Costs associated with this training may not be reimbursed from additional Medicaid funding through interim rate adjustments.

(5) A nursing home, in accordance with chapter 464 and rules adopted pursuant to this section, may authorize a registered nurse to delegate tasks, including medication administration, to a certified nursing assistant who meets the requirements of this subsection.

(a) In addition to the initial 6-hour training course and determination of competency required under s. 464.2035, to be eligible to administer medication to a resident of a nursing home facility, a certified nursing assistant must:

1. Hold a clear and active certification from the Department of Health for a minimum of 1 year immediately preceding the delegation;

2. Complete an additional 34-hour training course approved by the Board of Nursing in medication administration and associated tasks, including, but not limited to, blood glucose level checks, dialing oxygen flow meters to prescribed settings, ~~and~~ assisting with continuous positive airway pressure devices, and identification of signs and symptoms of a blood clot and how

to assist with a response protocol; and

3. Demonstrate clinical competency by successfully completing a supervised clinical practice in medication administration and associated tasks conducted in the facility.

Section 5. Paragraph (g) of subsection (1) of section 429.41, Florida Statutes, is amended to read:

429.41 Rules establishing standards.—

(1) It is the intent of the Legislature that rules published and enforced pursuant to this section shall include criteria by which a reasonable and consistent quality of resident care and quality of life may be ensured and the results of such resident care may be demonstrated. Such rules shall also promote a safe and sanitary environment that is residential and noninstitutional in design or nature and may allow for technological advances in the provision of care, safety, and security, including the use of devices, equipment, and other security measures related to wander management, emergency response, staff risk management, and the general safety and security of residents, staff, and the facility. It is further intended that reasonable efforts be made to accommodate the needs and preferences of residents to enhance the quality of life in a facility. The agency, in consultation with the Department of Children and Families and the Department of Health, shall adopt rules to administer this part, which must include reasonable and fair minimum standards in relation to:

(g) The care of residents provided by the facility, which must include:

1. The supervision of residents;

2. The provision of personal services;



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3. The provision of, or arrangement for, social and leisure activities;

4. The assistance in making arrangements for appointments and transportation to appropriate medical, dental, nursing, or mental health services, as needed by residents;

5. The management of medication stored within the facility and as needed by residents;

6. The dietary needs of residents;

7. Resident records; ~~and~~

8. Internal risk management and quality assurance; and

9. Identification of residents who are at risk for developing blood clots, and the treating facility's response protocols to help ensure access to timely treatment.

Section 6. Paragraph (h) is added to subsection (3) of section 429.52, Florida Statutes, to read:

429.52 Staff training and educational requirements.—

(3) The agency, in conjunction with providers, shall develop core training requirements for administrators consisting of core training learning objectives, a competency test, and a minimum required score to indicate successful passage of the core competency test. The required core competency test must cover at least the following topics:

(h) Identification of and responding to residents at high risk of developing blood clots and pulmonary embolisms.

Section 7. This act shall take effect July 1, 2025.



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The Florida Senate

# Committee Agenda Request

**To:** Senator Colleen Burton, Chair
Committee on Health Policy

**Subject:** Committee Agenda Request

**Date:** March 3, 2025

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I respectfully request that **Senate Bill #890**, relating to Improving Screening for and Treatment of Blood Clots, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Clay Yarborough

Senator Clay Yarborough
Florida Senate, District 4

File signed original with committee office

S-020 (03/2004)

**The Florida Senate**

# BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Health Policy

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| BILL: | SB 182 |
| INTRODUCER: | Senator Calatayud |
| SUBJECT: | Tax Credits for Charitable Contributions |
| DATE: | March 10, 2025 |
| REVISED: | |

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|---|---|---|---|---|
| 1. | Morgan | Brown | HP | **Pre-meeting** |
| 2. | | | FT | |
| 3. | | | AP | |

## I. Summary:


SB 182 creates s. 402.63, F.S., the Home Away From Home Tax Credit, which provides tax credits against various Florida taxes to businesses that make monetary contributions to certain eligible charitable organizations that house families of critically ill children at little or no cost to the family while traveling so the child can receive care.

The bill specifies requirements for an eligible charitable organization, which must be a s. 501(c)(3) organization under the Internal Revenue Code, must be a Florida entity with its principal office in Florida, and must house families of critically ill children at de minimis to no cost to the family while the child receives treatment. The eligible charitable organization must expend 100 percent of any contributions received for the expansion of current structures or the construction of new facilities to comfort and support families, thereby removing the additional burden of lodging costs for those already experiencing significant medical expenses.

The bill also specifies procedures and requirements for eligible charitable organizations to apply with the Florida Department of Health (DOH), requires the organizations to conduct criminal history background screening on all volunteers and staff working directly with children in any program funded with contributions, and requires the organizations to submit annual audit reports to the DOH. The bill specifies requirements and procedures for, and limitations on, receiving, using, or transferring the tax credits, including applying with the Florida Department of Revenue (DOR).

The tax credit is capped at $2.5 million in each state fiscal year.

For the 2025-2026 fiscal year, the bill appropriates $208,000 in nonrecurring funds from the General Revenue Fund to the DOR for the purpose of implementing the Home Away From Home Tax Credit.

The bill provides an effective date of July 1, 2025.

## II. Present Situation:

### The Florida Department of Health

The Florida Department of Health (DOH) is responsible for the state's public health system, which is designed to promote, protect, and improve the health of all people in the state.[1]

### The Florida Department of Revenue

The Florida Department of Revenue (DOR) administers three main programs: the Child Support Program, the General Tax Administration Program, and the Property Tax Oversight Program. The DOR collects more than $40 billion a year in taxes and fees annually and processes more than $9 million in tax filings annually.[2]

### The Florida Department of Business and Professional Regulation

The Department of Business and Professional Regulation (DBPR) is the agency charged with licensing and regulating businesses and professionals in the State of Florida, such as cosmetologists, veterinarians, real estate agents, and pari-mutuel wagering facilities.[3]

#### *The Division of Alcoholic Beverages and Tobacco*

The DBPR's Division of Alcoholic Beverages and Tobacco issues licenses or permits that are required for any business or person to manufacture, import, export, store, distribute or sell alcoholic beverages or products containing tobacco or nicotine. The Division of Alcoholic Beverages and Tobacco conducts audits to ensure the proper collection of taxes, surcharges, and fees, and conducts inspections and investigations to ensure compliance with the laws and regulations governing the sale of alcoholic beverages and products containing tobacco or nicotine pursuant to Florida Statutes.[4]

### Health Care Hospitality Homes

Health care hospitality homes provide lodging at significantly reduced costs to patients and their caregivers while the patients receive life-saving medical care away from their home communities. While hotels serve guests traveling for many different reasons, health care hospitality homes provide an environment created specifically to support patients and their caregivers dealing with health care issues. By creating a welcoming and communal space for those going through similar stressful situations, a sense of community is created where patients and caregivers can support one another. Most health care hospitality homes have shared kitchens,

[1] Section 381.001, F.S.
[2] Florida Department of Revenue, *Quick Facts about the Florida Department of Revenue, available at* https://floridarevenue.com/opengovt/Pages/quick_facts.aspx (last visited Mar. 6, 2025).
[3] Florida Department of Business & Professional Regulation, *Department Overview, available at* https://www2.myfloridalicense.com/about-us/department-overview/ (last visited Mar. 6, 2025).
[4] Florida Department of Business & Professional Regulation, *Department Divisions & Offices, available at* https://www2.myfloridalicense.com/about-us/department-divisions/ (last visited Mar. 6, 2025).

common living areas, and private bedrooms and bathrooms that create a feeling of a home-away-from-home, as well as a safe place to land each day. Health care hospitality homes help alleviate the financial burden often associated with medical crises and reduce stress on both the patient and family members.[5]

**State Revenue Sources**

Currently, there are no statutory provisions for a tax credit program for eligible contributions made to eligible charitable organizations that house families of critically ill children at de minimis to no cost to the family while the child receives treatment.

***Corporate Income Tax***

The state of Florida imposes a 5.5 percent tax on the taxable income of certain corporations and financial institutions conducting business in the state.[6] Corporate income tax is remitted to the DOR and distributed to the General Revenue Fund. Net collections of corporate income tax in state fiscal year 2023-2024 were determined to be $6.02 billion.[7]

Credits against corporate income tax or franchise tax are applied in the order as enumerated in the following sections: 631.828,[8] 220.191,[9] 220.181,[10] 220.183,[11] 220.182,[12] 220.1895,[13] 220.195,[14] 220.184,[15] 220.186,[16] 220.1845,[17] 220.19,[18] 220.185,[19] 220.1875,[20] 220.1876,[21]

[5] Healthcare Hospitality Network, *History of HHN, available at* https://www.hhnetwork.org/history-of-hhn/ (last visited Mar. 6, 2025).
[6] Sections 220.11(2), F.S. and 220.63(2), F.S.
[7] Florida Office of Economic & Demographic Research, *Revenue Estimating Conference General Revenue Fund, Changes to the Estimate, General Revenue Fund (Aug. 14, 2024), available at* https://edr.state.fl.us/content/conferences/generalrevenue/grchng.pdf (last visited Mar. 6, 2025).
[8] Credit for assessment paid by a member of a health maintenance organization.
[9] Capital investment tax credit.
[10] Enterprise zone jobs credit.
[11] Community contribution tax credit.
[12] Enterprise zone property tax credit.
[13] Rural Job Tax Credit and Urban High-Crime Area Job Tax Credit.
[14] Emergency excise tax credit.
[15] Hazardous waste facility tax credit.
[16] Credit for Florida alternative minimum tax.
[17] Contaminated site rehabilitation tax credit.
[18] Child care tax credits.
[19] State housing tax credit.
[20] Credit for contributions to eligible nonprofit scholarship-funding organizations.
[21] Credit for contributions to the New Worlds Reading Initiative.

220.1877,[22] 220.1878,[23] 220.193,[24] former 288.9916,[25] former 220.1899,[26] former 220.194,[27] 220.196,[28] 220.198,[29] 220.1915,[30] 220.199,[31] 220.1991,[32] and 220.1992, F.S.[33]

***Insurance Premium Tax***

The state of Florida imposes a 1.75 percent tax on most Florida insurance premiums.[34] Insurance premium taxes are paid by insurance companies under ch. 624, F.S., and are remitted to the DOR. These revenues are distributed to the General Revenue Fund with additional distributions to the Insurance Regulatory Trust Fund, the Police & Firefighters Premium Tax Trust Fund, and the Emergency Management Preparedness & Assistance Trust Fund. Net collections of insurance premium tax in state fiscal year 2023-2024 were determined to be $1.74 billion.[35]

***Severance Taxes on Oil and Gas Production***

Oil and gas production severance taxes are imposed on every person who severs oil or gas in the state of Florida for sale, transport, storage, profit, or commercial use.[36] These taxes are remitted to the DOR and distributed to the General Revenue Fund with additional distributions to the Minerals Trust Fund and to the counties where production occurred. Net collections from the severance taxes on oil and gas in state fiscal year 2023-2024 were determined to be $8.1 million.[37]

***Sales Taxes Paid by Direct Pay Permit Holders***

Section 212.183, F.S., authorizes the DOR to establish a process for the self-accrual of sales taxes due under ch. 212, F.S. The process involves the DOR granting a direct pay permit to a taxpayer, who then pays the taxes directly to the DOR.[38]

[22] Credit for contributions to eligible charitable organizations.
[23] Credit for contributions to the Live Local Program.
[24] Florida renewable energy production credit.
[25] New market tax credit.
[26] Entertainment industry tax credit.
[27] Corporate income tax credit for spaceflight projects.
[28] Research and development tax credit.
[29] Experiential learning tax credit program.
[30] Credit for qualified railroad reconstruction or replacement expenditures.
[31] Residential graywater system tax credit.
[32] Credit for manufacturing of human breast milk derived human milk fortifiers.
[33] Individuals with Unique Abilities Tax Credit Program.
[34] Section 624.509, F.S.
[35] *Supra* note 7.
[36] Sections 211.02, F.S., and 211.025, F.S.
[37] *Supra* note 7.
[38] Section 212.183, F.S., and Rule 12A-1.0911, F.A.C. Direct pay permit holders include: dealers who annually make purchases in excess of $10 million per year in any county; dealers who annually purchase at least $100,000 of tangible personal property, including maintenance and repairs for their own use; dealers who purchase promotional materials whose ultimate use is unknown at purchase; eligible air carriers, vessels, railroads, and motor vehicles engaged in interstate and foreign commerce; and dealers who lease realty from a number of independent property owners.

### *Alcoholic Beverage Tax on Beer, Wine, and Spirits*

The state of Florida imposes excise taxes on malt beverages, wines, and other beverages.[39] The taxes are due from manufacturers, distributors and vendors of malt beverages, and from manufacturers and distributors of wine, liquor, and other specified alcoholic beverages. Taxes are remitted to the DBPR's Division of Alcoholic Beverages and Tobacco.[40]

Distributions of the excise taxes on alcoholic beverages are made to the General Revenue Fund, the Alcoholic Beverage and Tobacco Trust Fund, and Viticulture Trust Fund. Net collections from the alcoholic beverage taxes in state fiscal year 2023-24 were determined to be $345 million.[41]

## Background Screening

### *Background Screening Process*

Level 1 and Level 2 Criminal History Record Checks are terms used under Florida law to convey the method of the criminal history record check and the extent of the data searched. Level 1 and Level 2 are terms that pertain only to Florida and are not used by the Federal Bureau of Investigation (FBI) or other states:[42]

- Level 1: a state-only name-based check.
- Level 2: a state and national fingerprint-based check and consideration of disqualifying offenses, applicable to employees and volunteers designated by law as holding positions of responsibility or trust and those required to be fingerprinted pursuant to ch. 435, F.S.

Public Law (Pub. L.) 92-544 authorizes the FBI to exchange criminal history record information (CHRI) with state and local governmental agencies' officials for licensing and employment purposes. Criteria established under Pub. L. 92-544 requires state statutes to designate an authorized governmental agency to be responsible for receiving and screening the results of the CHRI to then determine an applicant's suitability for employment or licensing. For Level 2 screening, the Florida Department of Law Enforcement (FDLE) is this state's authorized governmental agency given the responsibility to perform a criminal history record check of its records and request that the FBI perform a national criminal history record check of its records for each employee for whom the request is made.[43]

Under current law, designated eligible charitable organizations are not considered authorized governmental agencies to conduct background screenings and, therefore, are unable to request or obtain national records pursuant to s. 435.04, F.S. However, the FDLE's Volunteer and Employee Criminal History System (VECHS) allows certain non-governmental organizations to obtain national criminal history results through the FDLE.[44]

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[39] Sections 563.05, F.S., 564.06, F.S., and 565.12, F.S.
[40] Section 561.02, F.S. The Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation is responsible for supervising the conduct, management, and operation of the manufacturing, packaging, distribution, and sale of all alcoholic beverages in the state of Florida.
[41] *Supra* note 7.
[42] Chapter 435, F.S.
[43] *Id*.
[44] Florida Department of Law Enforcement, *Volunteer & Employee Criminal History System, available at* https://www.fdle.state.fl.us/background-checks (last visited Mar. 6, 2025).

Once the FDLE receives fingerprints and payment for CHRI, with the assistance of the FBI, the FDLE will provide the organization:[45]

- Either an indication that the person has no criminal history or the criminal history record that shows arrests and convictions for the state of Florida and other states, if any; and
- Notification of any warrants or domestic violence injunctions that the person may have.

## III. Effect of Proposed Changes:

**Section 1** creates s. 211.02535, F.S., to authorize a tax credit of 100 percent of an eligible contribution made to an eligible charitable organization beginning January 1, 2026, under the Home Away From Home Tax Credit against any tax due under s. 211.02, F.S., or s. 211.025, F.S., for oil or gas production. However, the combined credit allowed under this section and s. 211.0251, F.S., may not exceed 50 percent of the tax due on the return on which the credit is taken. If the combined credit allowed under this section and s. 211.0251, F.S., exceeds 50 percent of the tax due on the return, the credit must first be taken under s. 211.0251, F.S. Any remaining liability must be taken under this section but may not exceed 50 percent of the tax due.

For the purpose of the distribution of tax revenue under s. 211.06, F.S., the bill directs the DOR to disregard any tax credits allowed under this section to ensure that any reduction in tax revenue received which is attributable to the tax credits results only in a reduction in distributions to the General Revenue Fund.

**Section 2** creates s. 212.18345, F.S., to authorize a tax credit of 100 percent of an eligible contribution made to an eligible charitable organization beginning January 1, 2026, under the Home Away From Home Tax Credit against any tax imposed by the state and due under this chapter from a direct pay permitholder as a result of the direct pay permit held pursuant to s. 212.183, F.S.

For the purpose of the distribution of tax revenue under s. 212.20, F.S., the bill directs the DOR to disregard any tax credits allowed under this section to ensure that any reduction in tax revenue received which is attributable to the tax credits results only in a reduction in distributions to the General Revenue Fund. A dealer who claims a tax credit under this section must file his or her tax returns and pay his or her taxes by electronic means under s. 213.755, F.S.

**Section 3** amends s. 220.02, F.S., to specify the order in which the credit is applied in relation to other corporate income tax credits.

**Section 4** creates s. 220.18775, F.S., to authorize a tax credit of 100 percent of an eligible contribution made to an eligible charitable organization for taxable years beginning on or after January 1, 2026, under the Home Away From Home Tax Credit against any tax due for a taxable year under ch. 220, F.S., after the application of any other allowable credits by the taxpayer. An eligible contribution must be made to an eligible charitable organization on or before the date the

[45] Florida Department of Law Enforcement, *VECHS Process and Forms, available at* https://www.fdle.state.fl.us/Background-Checks/VECHS-Process-and-Forms (last visited Mar. 6, 2025).

taxpayer is required to file a return pursuant to s. 220.222, F.S. The credit is reduced by the difference between the amount of federal corporate income tax, taking into account the credit granted by this section, and the amount of federal corporate income tax without application of the credit granted by this section. A taxpayer who files a Florida consolidated return as a member of an affiliated group pursuant to s. 220.131(1), F.S., may be allowed the credit on a consolidated return basis, subject to limitations.

If a taxpayer applies and is approved for a credit under the Home Away From Home Tax Credit after timely requesting an extension to file under s. 220.222(2), F.S.:

- The credit does not reduce the amount of tax due for purposes of the DOR's determination as to whether the taxpayer was in compliance with the requirement to pay tentative taxes under ss. 220.222 and 220.32, F.S.
- The taxpayer's noncompliance with the requirement to pay tentative taxes will result in the revocation and rescindment of any such credit.
- The taxpayer will be assessed for any taxes, penalties, or interest due from the taxpayer's noncompliance with the requirement to pay tentative taxes.

**Section 5** creates s. 402.63, F.S., to establish the Home Away From Home Tax Credit.

The bill defines the following terms:

- "Annual tax credit amount" means, for any state fiscal year, the sum of the amount of tax credits approved under s. 402.63(5)(b), F.S., including tax credits to be taken for severance taxes on oil and gas production; self-accrued sales tax liability of direct pay permit holders; corporate income tax; the alcoholic beverage tax on beer, wine, and spirits; or the insurance premium tax, which are approved for taxpayers whose taxable years begin on or after January 1 of the calendar year preceding the start of the applicable state fiscal year.
- "Division" means the Division of Alcoholic Beverages and Tobacco of the DBPR.
- "Eligible charitable organization" means an organization designated by the DOH as eligible to receive funding under the Home Away From Home Tax Credit.
- "Eligible contribution" means a monetary contribution from a taxpayer, subject to the restrictions provided under the Home Away From Home Tax Credit, to an eligible charitable organization. The taxpayer making the contribution may not designate a specific family to be assisted by the eligible charitable organization as the beneficiary of the contribution.
- "Tax credit cap amount" means the maximum annual tax credit amount that the DOR may approve for a state fiscal year.

The bill requires the DOH to designate as an eligible charitable organization an organization that meets all of the following requirements:

- Is exempt from federal income taxation under s. 501(c)(3) of the Internal Revenue Code.
- Is a Florida entity formed under ch. 605, F.S., ch. 607, F.S., or ch. 617, F.S., whose principal office is located in this state.
- At de minimis to no cost to the family, houses families of critically ill children receiving treatment.
- Provides to the DOH accurate information, including, at a minimum, a description of the services provided by the organization; the total number of individuals served through those

services during the last calendar year; basic financial information regarding the organization and services; and contact information for the organization.
- Annually submits a statement, signed under penalty of perjury by a current officer of the organization, that the organization meets all criteria to qualify as an eligible charitable organization, has fulfilled responsibilities under the Home Away From Home Tax Credit for the previous fiscal year if the organization received any funding through this credit during the previous fiscal year, and intends to fulfill its responsibilities during the upcoming fiscal year.
- Provides any documentation requested by the DOH to verify eligibility as an eligible charitable organization or compliance with the Home Away From Home Tax Credit.

The bill prohibits the designation of an organization that provides abortions, or pays for or provides coverage for abortions, as an eligible charitable organization by the DOH.

The bill requires that an eligible charitable organization that receives a contribution under the Home Away From Home Tax Credit must do all of the following:
- Apply for admittance into the Department of Law Enforcement's Volunteer and Employee Criminal History System and, if accepted, conduct background screening on all volunteers and staff working directly with children in any program funded under the Home Away From Home Tax Credit pursuant to s. 943.0542, F.S. Background screening must use level 2 screening standards pursuant to s. 435.04, F.S., and must include, but need not be limited to, a check of the Dru Sjodin National Sex Offender Public Website.
- Expend 100 percent of any contributions received under the Home Away From Home Tax Credit for the expansion of current structures or the construction of new facilities for the purpose of housing families of critically ill children receiving treatment.
- Annually submit to the DOH:
  - An audit of the eligible charitable organization conducted by an independent certified public accountant in accordance with auditing standards generally accepted in the United States, government auditing standards, and rules adopted by the Auditor General. The audit report must include a report on financial statements presented in accordance with generally accepted accounting principles. The audit report must be provided to the DOH within 180 days after completion of the eligible charitable organization's fiscal year.
  - A copy of the eligible charitable organization's most recent federal Internal Revenue Service Return of Organization Exempt from Income Tax form (Form 990).
- Notify the DOH immediately if it is in jeopardy of losing the eligible charitable organization designation under the Home Away From Home Tax Credit.
- Upon receipt of a contribution, provide the taxpayer that made the contribution with a certificate of contribution. A certificate of contribution must include the taxpayer's name and, if available, its federal employer identification number, the amount contributed, the date of contribution, and the name of the eligible charitable organization.

The bill requires the DOH to do all of the following:
- Annually redesignate eligible charitable organizations that have complied with all requirements of the Home Away From Home Tax Credit.
- Remove the designation of organizations that fail to meet all requirements of the Home Away From Home Tax Credit. An organization that has had its designation removed by the DOH may reapply for designation as an eligible charitable organization, and the DOH may

redesignate such organization if it meets the requirements of the Home Away From Home Tax Credit and demonstrates through its application that all factors leading to its removal as an eligible charitable organization have been sufficiently addressed.

- Work with each eligible charitable organization to assist in the maintenance of eligibility requirements until the completion of any construction project involving funds awarded in accordance with the Home Away From Home Tax Credit. The DOH must establish a redesignation window for which an organization may be redesignated without the recoupment of funds.
- Publish information about the tax credit and eligible charitable organizations on a DOH website. The website must, at a minimum, provide all of the following:
  - The requirements and process for becoming designated or redesignated as an eligible charitable organization.
  - A list of the eligible charitable organizations that are currently designated by the DOH and the information provided under s. 402.63(2)(a)4., F.S., regarding each eligible charitable organization.
  - The process for a taxpayer to select an eligible charitable organization as the recipient of funding through a tax credit.
- Compel the return of funds that were provided to an eligible charitable organization that fails to comply with the requirements of the Home Away From Home Tax Credit. Eligible charitable organizations subject to return of funds are ineligible to receive funding under the Home Away From Home Tax Credit for a period of 10 years after final agency action to compel the return of funds.
  - In order to encourage the completion of all construction projects, the DOH must establish a process to determine whether an eligible charitable organization has failed to fulfill its responsibilities under the Home Away From Home Tax Credit. The process must require an eligible charitable organization to provide documentation of good faith efforts made to complete construction, including, but not limited to, plans and status updates on the project.
  - An eligible charitable organization that no longer meets the eligibility requirements under the Home Away From Home Tax Credit and makes no effort in conjunction with the DOH to rectify the situation is subject to return of funds.
- Analyze the use of funding provided by the tax credit authorized under the Home Away From Home Tax Credit and submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives annually, beginning October 1, 2026. The report must, at a minimum, include the total funding amount provided under the Home Away From Home Tax Credit and the amounts provided to each eligible charitable organization, describe the eligible charitable organizations that were funded, and assess the outcomes that were achieved, as well as the projects in progress, using the funding.

The bill authorizes a tax credit cap amount of $2.5 million in each state fiscal year beginning in fiscal year 2025-2026.

The bill authorizes a taxpayer to submit an application to the DOR for a tax credit or credits to be taken against the taxpayer's liability for several state taxes: severance taxes on oil and gas production; self-accrued sales tax liability of direct pay permit holders; corporate income tax; alcoholic beverage tax on beer, wine, and spirits; and insurance premium tax. The application may be submitted beginning at 9:00 a.m., on the first day of the calendar year, which is not a

Saturday, Sunday, or legal holiday. The DOR may not approve applications for a tax credit under the Home Away From Home Tax Credit after state fiscal year 2030-2031.

The bill requires the taxpayer to specify in the application each tax for which the taxpayer requests a credit and the applicable taxable year for a credit towards corporate income or insurance premium tax, or the applicable state fiscal year for a credit towards severances taxes on oil and gas production, self-accrued sales tax liability of direct pay permit holders, or alcoholic beverage tax on beer, wine, and spirits. For purposes of corporate income tax, a taxpayer may apply for a credit to be used for a prior taxable year before the date the taxpayer is required to file a return for that year pursuant to s. 220.222, F.S.

For purposes of insurance premium tax, a taxpayer may apply for a credit to be used for a prior taxable year before the date the taxpayer is required to file a return for that prior taxable year pursuant to ss. 624.509 and 624.5092, F.S. The application must specify the eligible charitable organization to which the proposed contribution will be made. The DOR must approve tax credits on a first-come, first-served basis and must obtain the approval of the DBPR's Division of Alcoholic Beverages and Tobacco before approving a tax credit for alcoholic beverage tax on beer, wine, and spirits. Within 10 days after approving or denying an application, the DOR must provide a copy of its approval or denial letter to the eligible charitable organization specified by the taxpayer in the application.

The bill authorizes the unused amount of an approved tax credit to be carried forward for a period not to exceed 10 years if it is not fully used within the specified year because of insufficient tax liability on the part of the taxpayer. For the purpose of the corporate income tax, a credit carried forward may be used in a subsequent year after applying the other credits and unused carryovers in the order provided in s. 220.02(8), F.S.

The bill prohibits a taxpayer from conveying, transferring, or assigning an approved tax credit or a carryforward tax credit to another entity unless all of the assets of the taxpayer are conveyed, assigned, or transferred in the same transaction. However, a tax credit may be conveyed, transferred, or assigned between members of an affiliated group of corporations if the type of tax credit remains the same. A taxpayer must notify the DOR of its intent to convey, transfer, or assign a tax credit to another member within an affiliated group of corporations. The amount conveyed, transferred, or assigned is available to another member of the affiliated group of corporations upon approval by the DOR. The DOR must obtain the approval of the Division of Alcoholic Beverages and Tobacco of the DBPR before approving a conveyance, transfer, or assignment of a tax credit for the alcoholic beverage tax on beer, wine, and spirits.

The bill authorizes a taxpayer the ability to rescind all or part of an approved tax credit within any state fiscal year. The amount rescinded becomes available for that state fiscal year to another eligible taxpayer as approved by the DOR if the taxpayer receives notice from the DOR that the rescindment has been accepted by the DOR. The DOR must obtain the approval of the DBPR's Division of Alcoholic Beverages and Tobacco before accepting the rescindment of a tax credit for the alcoholic beverage tax on beer, wine, and spirits. Any amount rescinded must become available to an eligible taxpayer on a first-come, first-served basis based on tax credit applications received after the date the rescindment is accepted by the DOR.

The bill requires the DOR to provide a copy of its approval or denial letter to the eligible charitable organization specified by the taxpayer within 10 days after approving or denying the conveyance, transfer, or assignment of a tax credit or the rescindment of a tax credit. The DOR must also include the eligible charitable organization specified by the taxpayer on all letters or correspondence of acknowledgement for tax credits for self-accrued sales tax liability of direct pay permit holders.

For purposes of calculating the underpayment of estimated corporate income taxes under s. 220.34, F.S., and tax installment payments for taxes on insurance premiums or assessments under s. 624.5092, F.S., the bill provides that the final amount due is the amount after corporate income or insurance premium tax credits earned for contributions to eligible charitable organizations are deducted. For purposes of determining whether a penalty or interest under s. 220.34(2)(d)1., F.S., will be imposed for underpayment of estimated corporate income tax, a taxpayer may, after earning a corporate income tax credit, reduce any estimated payment in that taxable year by the amount of the credit. For purposes of determining whether a penalty under s. 624.5092, F.S., will be imposed, an insurer may, after earning an insurance premium tax credit for a taxable year, reduce any installment payment for such taxable year of 27 percent of the amount of the net tax due as reported on the return for the preceding year under s. 624.5092(2)(b), F.S., by the amount of the credit.

The bill provides that is any provision or portion of the Home Away From Home Tax Credit, s. 211.0253, F.S., s. 212.1834, F.S., s. 220.1877, F.S., s. 561.1213, F.S., or s. 624.51057, F.S., or the application thereof to any person or circumstance is held unconstitutional by any court or is otherwise declared invalid, the unconstitutionality or invalidity does not affect any credit earned under these sections by any taxpayer with respect to any contribution paid to an eligible charitable organization before the date of a determination of unconstitutionality or invalidity. The credit will be allowed at such time and in such a manner as if a determination of unconstitutionality or invalidity had not been made, provided that the allowance of any credit to any taxpayer in excess of one dollar of credit for each dollar paid to an eligible charitable organization is prohibited.

The bill authorizes the DOR, the DBPR's Division of Alcoholic Beverages and Tobacco, and the DOH to develop a cooperative agreement to assist in the administration of the Home Away From Home Tax Credit, as needed.

The bill authorizes the DOR to adopt rules necessary to administer the Home Away From Home Tax Credit, and ss. 211.0253, 212.1834, 220.1877, 561.1213, and 624.51057, F.S., including rules establishing application forms, procedures governing the approval of tax credits and carryforward tax credits, and procedures to be followed by taxpayers when claiming approved tax credits on returns.

The bill authorizes the DBPR's Division of Alcoholic Beverages and Tobacco to adopt rules necessary to administer its responsibilities under the Home Away From Home Tax Credit and s. 561.1213, F.S.

The bill authorizes the DOH to adopt rules necessary to administer the Home Away From Home Tax Credit, including, but not limited to, rules establishing application forms for organizations seeking designation as eligible charitable organizations.

Notwithstanding any provision of s. 213.053, F.S., to the contrary, the bill provides that sharing information with the DBPR's Division of Alcoholic Beverages and Tobacco related to a tax credit under the Home Away From Home Tax Credit is considered the conduct of the DOR's official duties as contemplated in s. 213.053(8)(c), F.S., and the DOR and the DBPR's Division of Alcoholic Beverages and Tobacco are specifically authorized to share information as needed to administer the Home Away From Home Tax Credit.

**Section 6** creates s. 561.12135, F.S., to authorize a tax credit of 100 percent of an eligible contribution made to an eligible charitable organization beginning January 1, 2026, under the Home Away From Home Tax Credit against any tax due under s. 563.05, F.S., s. 564.06, F.S., or s. 565.12, F.S., except excise taxes imposed on wine produced by manufacturers in Florida from products grown in Florida. However, a credit allowed for the alcoholic beverage tax on beer, wine, and spirits may not exceed 90 percent of the tax due on the return on which the credit is taken. For the purpose of the distributions of tax revenue under ss. 561.121 and 564.06(10), F.S., the DBPR's Division of Alcoholic Beverages and Tobacco must disregard any tax credits allowed for the alcoholic beverage tax on beer, wine, and spirits to ensure that any reduction in tax revenue received which is attributable to the tax credits results only in a reduction in distributions to the General Revenue Fund.

**Section 7** creates s. 624.51059, F.S., to authorize a tax credit of 100 percent of an eligible contribution made t6o an eligible charitable organization for taxable years beginning on or after January 1, 2026, under the Home Away From Home Tax Credit against any tax due for a taxable year under s. 624.509(1), F.S., after deducting from such tax deductions for assessments made pursuant to s. 440.51, F.S.; credits for taxes paid under ss. 175.101 and 185.08, F.S.; credits for income taxes paid under ch. 220, F.S.; and the credit allowed under s. 624.509(5), F.S., as such credit is limited by s. 624.509(6), F.S. An eligible contribution must be made to an eligible charitable organization on or before the date the taxpayer is required to file a return pursuant to ss. 624.509 and 624.5092, F.S. An insurer claiming a credit against premium tax liability for insurance premium tax is not required to pay any additional retaliatory tax levied under s. 624.5091, F.S., as a result of claiming such credit. Section 624.5091, F.S., does not limit such credit in any manner.

**Section 8** creates a non-statutory section of the Laws of Florida to authorize the DOR to adopt emergency rules under s. 120.54(4), F.S., for the purpose of implementing provisions related to the Home Away From Home Tax Credit. Notwithstanding any other law, emergency rules adopted are effective for six months after adoption and may be renewed during the pendency of procedures to adopt permanent rules addressing the subject of the emergency rules.

**Section 9** creates a non-statutory section of the Laws of Florida to appropriate, for the 2025-2026 fiscal year, $208,000 in nonrecurring funds from the General Revenue Fund to the DOR for the purpose of implementing the Home Away From Home Tax Credit.

**Section 10** provides an effective date of July 1, 2025.

## IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

## V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill may decrease the state's tax collections. The Home Away From Home Tax Credit is capped at $2.5 million for each state fiscal year.

Under current law:[46]

- The revenue for the state portion of an employee's state and national criminal history record check will be $24 per name submitted; and
- The revenue for the state portion of a volunteer's state and national criminal history record check will be $18 per volunteer name submitted.

This revenue goes into FDLE's Operating Trust Fund and is subject to a general revenue service charge of eight percent, pursuant to ch. 215, F.S.[47]

B. Private Sector Impact:

Eligible charitable organizations under the Home Away From Home Tax Credit will benefit from the dollar-for-dollar credit against certain tax liabilities up to a cap of $2.5 million. However, eligible charitable organizations will incur the cost of obtaining an

[46] Section 943.053, F.S.
[47] Florida Department of Law Enforcement, *Agency Analysis for SB 908 (Feb. 15, 2021)* (on file with the Committee on Health Policy).

audit from an independent certified public accountant, as well as the fees associated with criminal history checks. VECHS approved organizations pay:[48]

- $36 for each employee electronic submission; and
- $28 for each volunteer electronic submission.

C. Government Sector Impact:

The bill appropriates $208,000 in non-recurring general revenue funds to the DOR to implement its provisions. Ongoing operational impacts on the DOR can be accommodated using existing resources.

The DOH will incur administrative and operational costs to implement the bill, which may require additional appropriations.

The state may experience a negative fiscal impact up to $2.5 million from the decreased collection of tax revenue that may result from implementation of this bill.

## VI. Technical Deficiencies:

None.

## VII. Related Issues:

None.

## VIII. Statutes Affected:

This bill amends section 220.02 of the Florida Statutes.

This bill creates the following sections of the Florida Statutes: 211.02535, 212.18345, 220.18775, 402.63, 561.12135, and 624.51059.

## IX. Additional Information:

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

None.

B. Amendments:

None.

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

[48] *Supra* note 45.

**By** Senator Calatayud

38-01040A-25 2025182__

A bill to be entitled

An act relating to tax credits for charitable contributions; creating s. 211.02535, F.S.; providing a credit against oil and gas production taxes under the Home Away From Home Tax Credit beginning on a specified date; prohibiting the combined credit allowed under certain provisions from exceeding a certain amount; requiring that a specified credit be taken first under certain circumstances; prohibiting any remaining liability from exceeding a certain amount; creating s. 212.18345, F.S.; providing a credit against sales taxes payable by direct pay permitholders under the Home Away From Home Tax Credit beginning on a specified date; requiring that the amount of tax due used to calculate the credit include certain amounts; requiring the Department of Revenue to disregard certain tax credits for a specified reason; providing applicability; requiring a dealer to pay his or her taxes electronically under certain circumstances; amending s. 220.02, F.S.; revising legislative intent; creating s. 220.18775, F.S.; providing a credit against the corporate income tax under the Home Away From Home Tax Credit beginning on a specified date; requiring that an eligible contribution be made on or before a specified date; providing that a credit granted by the act is reduced by specified calculation; authorizing the credit on a consolidated return basis under certain circumstances; providing applicability; specifying requirements if a



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taxpayer applies and is approved for a specified credit; creating s. 402.63, F.S.; defining terms; requiring the Department of Health to designate organizations meeting specified criteria as eligible charitable organizations for purposes of the tax credit; prohibiting the Department of Health from designating certain organizations; specifying requirements for eligible charitable organizations receiving contributions; specifying duties of the Department of Health; specifying a limitation on, and application procedures for, the tax credit; specifying requirements and procedures for, and restrictions on, the carryforward, conveyance, transfer, assignment, and rescindment of credits; specifying requirements and procedures for the Department of Revenue; providing construction; authorizing the Department of Revenue, the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation, and the Department of Health to develop a cooperative agreement and adopt rules; authorizing certain interagency information sharing; providing construction; creating s. 561.12135, F.S.; providing a credit against excise taxes on certain alcoholic beverages under the Home Away From Home Tax Credit beginning on a specified date; prohibiting the credit from exceeding a certain amount; requiring the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation to disregard certain tax credits for a specified reason;

providing applicability; creating s. 624.51059, F.S.; providing a credit against the insurance premium tax under the Home Away From Home Tax Credit for certain taxable years; specifying that certain insurers are not required to pay additional retaliatory tax; providing that a certain provision does not limit the credit; providing applicability; authorizing the Department of Revenue to adopt emergency rules related to the Home Away From Home Tax Credit; providing that such emergency rules are effective for a specified period of time; authorizing that such emergency rules be renewed under certain circumstances; providing an appropriation; providing an effective date.

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

Section 1. Section 211.02535, Florida Statutes, is created to read:

211.02535 Credit for contributions to eligible charitable organizations for the Home Away From Home Tax Credit.—Beginning January 1, 2026, there is allowed a credit of 100 percent of an eligible contribution made to an eligible charitable organization under s. 402.63 against any tax due under s. 211.02 or s. 211.025. However, the combined credit allowed under this section and s. 211.0251 may not exceed 50 percent of the tax due on the return on which the credit is taken. If the combined credit allowed under this section and s. 211.0251 exceeds 50 percent of the tax due on the return, the credit must first be taken under s. 211.0251. Any remaining liability must be taken

under this section, but may not exceed 50 percent of the tax due. For purposes of the distributions of tax revenue under s. 211.06, the department shall disregard any tax credits allowed under this section to ensure that any reduction in tax revenue received which is attributable to the tax credits results only in a reduction in distributions to the General Revenue Fund. Section 402.63 applies to the credit authorized by this section.

Section 2. Section 212.18345, Florida Statutes, is created to read:

212.18345 Credit for contributions to eligible charitable organizations for the Home Away From Home Tax Credit.—Beginning January 1, 2026, there is allowed a credit of 100 percent of an eligible contribution made to an eligible charitable organization under s. 402.63 against any tax imposed by the state and due under this chapter from a direct pay permitholder as a result of the direct pay permit held pursuant to s. 212.183. For purposes of the dealer's credit granted for keeping prescribed records, filing timely tax returns, and properly accounting and remitting taxes under s. 212.12, the amount of tax due used to calculate the credit must include any eligible contribution made to an eligible charitable organization from a direct pay permitholder. For purposes of the distributions of tax revenue under s. 212.20, the department shall disregard any tax credits allowed under this section to ensure that any reduction in tax revenue received which is attributable to the tax credits results only in a reduction in distributions to the General Revenue Fund. Section 402.63 applies to the credit authorized by this section. A dealer who claims a tax credit under this section must file his or her tax returns and pay his

or her taxes by electronic means under s. 213.755.

Section 3. Subsection (8) of section 220.02, Florida Statutes, is amended to read:

220.02 Legislative intent.—

(8) It is the intent of the Legislature that credits against either the corporate income tax or the franchise tax be applied in the following order: those enumerated in s. 631.828, those enumerated in s. 220.191, those enumerated in s. 220.181, those enumerated in s. 220.183, those enumerated in s. 220.182, those enumerated in s. 220.1895, those enumerated in s. 220.195, those enumerated in s. 220.184, those enumerated in s. 220.186, those enumerated in s. 220.1845, those enumerated in s. 220.19, those enumerated in s. 220.185, those enumerated in s. 220.1875, those enumerated in s. 220.1876, those enumerated in s. 220.1877, those enumerated in s. 220.18775, those enumerated in s. 220.1878, those enumerated in s. 220.193, those enumerated in former s. 288.9916, those enumerated in former s. 220.1899, those enumerated in former s. 220.194, those enumerated in s. 220.196, those enumerated in s. 220.198, those enumerated in s. 220.1915, those enumerated in s. 220.199, those enumerated in s. 220.1991, and those enumerated in s. 220.1992.

Section 4. Section 220.18775, Florida Statutes, is created to read:

220.18775 Credit for contributions to eligible charitable organizations for the Home Away From Home Tax Credit.—

(1) For taxable years beginning on or after January 1, 2026, there is allowed a credit of 100 percent of an eligible contribution made to an eligible charitable organization under s. 402.63 against any tax due for a taxable year under this



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chapter after the application of any other allowable credits by the taxpayer. An eligible contribution must be made to an eligible charitable organization on or before the date the taxpayer is required to file a return pursuant to s. 220.222. The credit granted by this section is reduced by the difference between the amount of federal corporate income tax, taking into account the credit granted by this section, and the amount of federal corporate income tax without application of the credit granted by this section.

(2) A taxpayer who files a Florida consolidated return as a member of an affiliated group pursuant to s. 220.131(1) may be allowed the credit on a consolidated return basis; however, the total credit taken by the affiliated group is subject to the limitation established under subsection (1).

(3) Section 402.63 applies to the credit authorized by this section.

(4) If a taxpayer applies and is approved for a credit under s. 402.63 after timely requesting an extension to file under s. 220.222(2):

(a) The credit does not reduce the amount of tax due for purposes of the department's determination as to whether the taxpayer was in compliance with the requirement to pay tentative taxes under ss. 220.222 and 220.32.

(b) The taxpayer's noncompliance with the requirement to pay tentative taxes will result in the revocation and rescindment of any such credit.

(c) The taxpayer will be assessed for any taxes, penalties, or interest due from the taxpayer's noncompliance with the requirement to pay tentative taxes.

Section 5. Section 402.63, Florida Statutes, is created to read:

402.63 Home Away From Home Tax Credit.—

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

(a) "Annual tax credit amount" means, for any state fiscal year, the sum of the amount of tax credits approved under paragraph (5)(b), including tax credits to be taken under s. 211.0253, s. 212.1834, s. 220.1877, s. 561.1213, or s. 624.51057, which are approved for taxpayers whose taxable years begin on or after January 1 of the calendar year preceding the start of the applicable state fiscal year.

(b) "Division" means the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation.

(c) "Eligible charitable organization" means an organization designated by the Department of Health as eligible to receive funding under this section.

(d) "Eligible contribution" means a monetary contribution from a taxpayer, subject to the restrictions provided in this section, to an eligible charitable organization. The taxpayer making the contribution may not designate a specific family to be assisted by the eligible charitable organization as the beneficiary of the contribution.

(e) "Tax credit cap amount" means the maximum annual tax credit amount that the Department of Revenue may approve for a state fiscal year.

(2) HOME AWAY FROM HOME TAX CREDITS; ELIGIBILITY.—

(a) The Department of Health shall designate as an eligible charitable organization an organization that meets all of the

following requirements:

1. Is exempt from federal income taxation under s. 501(c)(3) of the Internal Revenue Code.

2. Is a Florida entity formed under chapter 605, chapter 607, or chapter 617 whose principal office is located in this state.

3. At de minimis to no cost to the family, houses families of critically ill children receiving treatment.

4. Provides to the Department of Health accurate information, including, at a minimum, a description of the services provided by the organization; the total number of individuals served through those services during the last calendar year; basic financial information regarding the organization and services; and contact information for the organization.

5. Annually submits a statement, signed under penalty of perjury by a current officer of the organization, that the organization meets all criteria to qualify as an eligible charitable organization, has fulfilled responsibilities under this section for the previous fiscal year if the organization received any funding through this credit during the previous fiscal year, and intends to fulfill its responsibilities during the upcoming fiscal year.

6. Provides any documentation requested by the Department of Health to verify eligibility as an eligible charitable organization or compliance with this section.

(b) The Department of Health may not designate as an eligible charitable organization an organization that provides abortions or pays for or provides coverage for abortions.

(3) RESPONSIBILITIES OF ELIGIBLE CHARITABLE ORGANIZATIONS.—An eligible charitable organization that receives a contribution under this section shall do all of the following:

(a) Apply for admittance into the Department of Law Enforcement's Volunteer and Employee Criminal History System and, if accepted, conduct background screening on all volunteers and staff working directly with children in any program funded under this section pursuant to s. 943.0542. Background screening must use level 2 screening standards pursuant to s. 435.04 and must include, but need not be limited to, a check of the Dru Sjodin National Sex Offender Public Website.

(b) Expend 100 percent of any contributions received under this section for the expansion of current structures or the construction of new facilities for the purpose specified in subparagraph (2)(a)3.

(c) Annually submit to the Department of Health:

1. An audit of the eligible charitable organization conducted by an independent certified public accountant in accordance with auditing standards generally accepted in the United States, government auditing standards, and rules adopted by the Auditor General. The audit report must include a report on financial statements presented in accordance with generally accepted accounting principles. The audit report must be provided to the Department of Health within 180 days after completion of the eligible charitable organization's fiscal year; and

2. A copy of the eligible charitable organization's most recent federal Internal Revenue Service Return of Organization Exempt from Income Tax form (Form 990).

(d) Notify the Department of Health immediately if it is in jeopardy of losing the eligible charitable organization designation under this section.

(e) Upon receipt of a contribution, provide the taxpayer that made the contribution with a certificate of contribution. A certificate of contribution must include the taxpayer's name and, if available, its federal employer identification number, the amount contributed, the date of contribution, and the name of the eligible charitable organization.

(4) RESPONSIBILITIES OF THE DEPARTMENT.—The Department of Health shall do all of the following:

(a) Annually redesignate eligible charitable organizations that have complied with all requirements of this section.

(b) Remove the designation of organizations that fail to meet all requirements of this section. An organization that has had its designation removed by the Department of Health may reapply for designation as an eligible charitable organization, and the Department of Health may redesignate such organization if it meets the requirements of this section and demonstrates through its application that all factors leading to its removal as an eligible charitable organization have been sufficiently addressed.

(c) Work with each eligible charitable organization to assist in the maintenance of eligibility requirements until the completion of any construction project involving funds awarded in accordance with this section. The Department of Health shall establish a redesignation window for which an organization may be redesignated without the recoupment of funds.

(d) Publish information about the tax credit and eligible

charitable organizations on a Department of Health website. The website must, at a minimum, provide all of the following:

1. The requirements and process for becoming designated or redesignated as an eligible charitable organization.

2. A list of the eligible charitable organizations that are currently designated by the Department of Health and the information provided under subparagraph (2)(a)4. regarding each eligible charitable organization.

3. The process for a taxpayer to select an eligible charitable organization as the recipient of funding through a tax credit.

(e) Compel the return of funds that were provided to an eligible charitable organization that fails to comply with the requirements of this section. Eligible charitable organizations subject to return of funds are ineligible to receive funding under this section for a period of 10 years after final agency action to compel the return of funds.

1. In order to encourage the completion of all construction projects, the Department of Health shall establish a process to determine whether an eligible charitable organization has failed to fulfill its responsibilities under this section. The process must require an eligible charitable organization to provide documentation of good faith efforts made to complete construction, including, but not limited to, plans and status updates on the project.

2. An eligible charitable organization that no longer meets the eligibility requirements under this section and makes no effort in conjunction with the Department of Health to rectify the situation is subject to return of funds.

(f) Analyze the use of funding provided by the tax credit authorized under this section and submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives annually, beginning October 1, 2026. The report must, at a minimum, include the total funding amount provided under this section and the amounts provided to each eligible charitable organization, describe the eligible charitable organizations that were funded, and assess the outcomes that were achieved, as well as the projects in progress, using the funding.

(5) HOME AWAY FROM HOME TAX CREDITS; APPLICATIONS, TRANSFERS, AND LIMITATIONS.—

(a) Beginning in fiscal year 2025-2026, the tax credit cap amount is $2.5 million in each state fiscal year.

(b) A taxpayer may submit an application to the Department of Revenue for a tax credit or credits to be taken under one or more of s. 211.0253, s. 212.1834, s. 220.1877, s. 561.1213, or s. 624.51057, beginning at 9 a.m. on the first day of the calendar year which is not a Saturday, Sunday, or legal holiday. The Department of Revenue may not approve applications for a tax credit under this section after state fiscal year 2030-2031.

1. The taxpayer must specify in the application each tax for which the taxpayer requests a credit and the applicable taxable year for a credit under s. 220.1877 or s. 624.51057 or the applicable state fiscal year for a credit under s. 211.0253, s. 212.1834, or s. 561.1213. For purposes of s. 220.1877, a taxpayer may apply for a credit to be used for a prior taxable year before the date the taxpayer is required to file a return for that year pursuant to s. 220.222. For purposes of s.



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624.51057, a taxpayer may apply for a credit to be used for a prior taxable year before the date the taxpayer is required to file a return for that prior taxable year pursuant to ss. 624.509 and 624.5092. The application must specify the eligible charitable organization to which the proposed contribution will be made. The Department of Revenue shall approve tax credits on a first-come, first-served basis and must obtain the division's approval before approving a tax credit under s. 561.1213.

2. Within 10 days after approving or denying an application, the Department of Revenue shall provide a copy of its approval or denial letter to the eligible charitable organization specified by the taxpayer in the application.

(c) If a tax credit approved under paragraph (b) is not fully used within the specified state fiscal year for credits under s. 211.0253, s. 212.1834, or s. 561.1213 or against taxes due for the specified taxable year for credits under s. 220.1877 or s. 624.51057 because of insufficient tax liability on the part of the taxpayer, the unused amount must be carried forward for a period not to exceed 10 years. For purposes of s. 220.1877, a credit carried forward may be used in a subsequent year after applying the other credits and unused carryovers in the order provided in s. 220.02(8).

(d) A taxpayer may not convey, transfer, or assign an approved tax credit or a carryforward tax credit to another entity unless all of the assets of the taxpayer are conveyed, assigned, or transferred in the same transaction. However, a tax credit under s. 211.0253, s. 212.1834, s. 220.1877, s. 561.1213, or s. 624.51057 may be conveyed, transferred, or assigned between members of an affiliated group of corporations if the

type of tax credit under s. 211.0253, s. 212.1834, s. 220.1877, s. 561.1213, or s. 624.51057 remains the same. A taxpayer shall notify the Department of Revenue of its intent to convey, transfer, or assign a tax credit to another member within an affiliated group of corporations. The amount conveyed, transferred, or assigned is available to another member of the affiliated group of corporations upon approval by the Department of Revenue. The Department of Revenue shall obtain the division's approval before approving a conveyance, transfer, or assignment of a tax credit under s. 561.1213.

(e) Within any state fiscal year, a taxpayer may rescind all or part of a tax credit approved under paragraph (b). The amount rescinded becomes available for that state fiscal year to another eligible taxpayer as approved by the Department of Revenue if the taxpayer receives notice from the Department of Revenue that the rescindment has been accepted by the Department of Revenue. The Department of Revenue must obtain the division's approval before accepting the rescindment of a tax credit under s. 561.1213. Any amount rescinded under this paragraph must become available to an eligible taxpayer on a first-come, first-served basis based on tax credit applications received after the date the rescindment is accepted by the Department of Revenue.

(f) Within 10 days after approving or denying the conveyance, transfer, or assignment of a tax credit under paragraph (d), or the rescindment of a tax credit under paragraph (e), the Department of Revenue shall provide a copy of its approval or denial letter to the eligible charitable organization specified by the taxpayer. The Department of Revenue shall also include the eligible charitable organization



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specified by the taxpayer on all letters or correspondence of acknowledgment for tax credits under s. 212.1834.

(g) For purposes of calculating the underpayment of estimated corporate income taxes under s. 220.34 and tax installment payments for taxes on insurance premiums or assessments under s. 624.5092, the final amount due is the amount after credits earned under s. 220.1877 or s. 624.51057 for contributions to eligible charitable organizations are deducted.

1. For purposes of determining whether a penalty or interest under s. 220.34(2)(d)1. will be imposed for underpayment of estimated corporate income tax, a taxpayer may, after earning a credit under s. 220.1877, reduce any estimated payment in that taxable year by the amount of the credit.

2. For purposes of determining whether a penalty under s. 624.5092 will be imposed, an insurer may, after earning a credit under s. 624.51057 for a taxable year, reduce any installment payment for such taxable year of 27 percent of the amount of the net tax due as reported on the return for the preceding year under s. 624.5092(2)(b) by the amount of the credit.

(6) PRESERVATION OF CREDIT.—If any provision or portion of this section, s. 211.0253, s. 212.1834, s. 220.1877, s. 561.1213, or s. 624.51057 or the application thereof to any person or circumstance is held unconstitutional by any court or is otherwise declared invalid, the unconstitutionality or invalidity does not affect any credit earned under s. 211.0253, s. 212.1834, s. 220.1877, s. 561.1213, or s. 624.51057 by any taxpayer with respect to any contribution paid to an eligible charitable organization before the date of a determination of

unconstitutionality or invalidity. The credit will be allowed at such time and in such a manner as if a determination of unconstitutionality or invalidity had not been made, provided that nothing in this subsection by itself or in combination with any other provision of law may result in the allowance of any credit to any taxpayer in excess of one dollar of credit for each dollar paid to an eligible charitable organization.

(7) ADMINISTRATION; RULES.—

(a) The Department of Revenue, the division, and the Department of Health may develop a cooperative agreement to assist in the administration of this section, as needed.

(b) The Department of Revenue may adopt rules necessary to administer this section and ss. 211.0253, 212.1834, 220.1877, 561.1213, and 624.51057, including rules establishing application forms, procedures governing the approval of tax credits and carryforward tax credits under subsection (5), and procedures to be followed by taxpayers when claiming approved tax credits on their returns.

(c) The division may adopt rules necessary to administer its responsibilities under this section and s. 561.1213.

(d) The Department of Health may adopt rules necessary to administer this section, including, but not limited to, rules establishing application forms for organizations seeking designation as eligible charitable organizations under this act.

(e) Notwithstanding any provision of s. 213.053 to the contrary, sharing information with the division related to a tax credit under this section is considered the conduct of the Department of Revenue's official duties as contemplated in s. 213.053(8)(c), and the Department of Revenue and the division

are specifically authorized to share information as needed to administer this section.

Section 6. Section 561.12135, Florida Statutes, is created to read:

561.12135 Credit for contributions to eligible charitable organizations for the Home Away From Home Tax Credit.—Beginning January 1, 2026, there is allowed a credit of 100 percent of an eligible contribution made to an eligible charitable organization under s. 402.63 against any tax due under s. 563.05, s. 564.06, or s. 565.12, except excise taxes imposed on wine produced by manufacturers in this state from products grown in this state. However, a credit allowed under this section may not exceed 90 percent of the tax due on the return on which the credit is taken. For purposes of the distributions of tax revenue under ss. 561.121 and 564.06(10), the division shall disregard any tax credits allowed under this section to ensure that any reduction in tax revenue received which is attributable to the tax credits results only in a reduction in distributions to the General Revenue Fund. Section 402.63 applies to the credit authorized by this section.

Section 7. Section 624.51059, Florida Statutes, is created to read:

624.51059 Credit for contributions to eligible charitable organizations for the Home Away From Home Tax Credit.—

(1) For taxable years beginning on or after January 1, 2026, there is allowed a credit of 100 percent of an eligible contribution made to an eligible charitable organization under s. 402.63 against any tax due for a taxable year under s. 624.509(1) after deducting from such tax deductions for



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assessments made pursuant to s. 440.51; credits for taxes paid under ss. 175.101 and 185.08; credits for income taxes paid under chapter 220; and the credit allowed under s. 624.509(5), as such credit is limited by s. 624.509(6). An eligible contribution must be made to an eligible charitable organization on or before the date the taxpayer is required to file a return pursuant to ss. 624.509 and 624.5092. An insurer claiming a credit against premium tax liability under this section is not required to pay any additional retaliatory tax levied under s. 624.5091 as a result of claiming such credit. Section 624.5091 does not limit such credit in any manner.

(2) Section 402.63 applies to the credit authorized by this section.

Section 8. The Department of Revenue is authorized, and all conditions are deemed met, to adopt emergency rules under s. 120.54(4), Florida Statutes, for the purpose of implementing provisions related to the Home Away From Home Tax Credit. Notwithstanding any other law, emergency rules adopted under this section are effective for 6 months after adoption and may be renewed during the pendency of procedures to adopt permanent rules addressing the subject of the emergency rules.

Section 9. For the 2025-2026 fiscal year, the sum of $208,000 in nonrecurring funds is appropriated from the General Revenue Fund to the Department of Revenue for the purpose of implementing the Home Away From Home Tax Credit as created by this act.

Section 10. This act shall take effect July 1, 2025.

The Florida Senate

# Committee Agenda Request

**To:** Senator Colleen Burton, Chair
Committee on Health Policy

**Subject:** Committee Agenda Request

**Date:** March 2, 2025

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I respectfully request that **Senate Bill #182**, relating to Tax Credits for Charitable Contributions, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Alexis Calatayud

Senator Alexis Calatayud
Florida Senate, District 38

File signed original with committee office

S-020 (03/2004)

**The Florida Senate**

# BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Health Policy

| | |
|---|---|
| BILL: | SB 762 |
| INTRODUCER: | Senator Berman |
| SUBJECT: | Preventing the Spread of Avian Influenza |
| DATE: | March 10, 2025 |
| REVISED: | |

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|---|---|---|---|---|
| 1. | Morgan | Brown | HP | **Pre-meeting** |
| 2. | | | AHS | |
| 3. | | | FP | |

## I. Summary:


SB 762 creates undesignated sections of the Laws of Florida, requiring the Florida Department of Health (DOH) to establish a "Be Ready Task Force" (task force) to develop a comprehensive statewide response strategy for preventing the spread of avian influenza in Florida's livestock population and prepare for the probability of human-to-human transmission in this state.

The bill provides administrative support to the task force, establishes the membership of the task force, and requires that the task force meet upon the call of the chair and as often as necessary to complete its duties. The task force may conduct its meetings through teleconference or other electronic means.

The bill requires that members of the task force serve without compensation; however, the bill authorizes reimbursement for per diem and travel expenses for members.

The bill requires the task force to develop recommendations on the spread of avian influenza in the state of Florida. The task force must submit a report of its recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by October 1, 2025. The task force is dissolved upon submission of its report.

The bill takes effect upon becoming law.

## II. Present Situation:

### Avian Influenza (Bird Flu)

Avian influenza, commonly known as the "bird flu," is a viral infection that spreads in birds, cows, and other animals. It can sometimes spread to people, causing mild to severe respiratory symptoms and conjunctivitis.[1]

#### *Risk Factors*

Exposure to infected, sick, or dead animals is the main risk factor for getting bird flu. Exposure to surfaces contaminated with animal secretions or excretions is another risk. Eating raw or undercooked poultry, eggs, or consuming unpasteurized milk from infected dairy cows could also be an exposure risk for infection with avian influenza viruses.[2]

Individuals with job-related or recreational exposure to birds or other avian-influenza virus-infected animals are at greater risk of infection. According to the federal Centers for Disease Control and Prevention (CDC), the following people are most likely to be exposed:[3]

- Poultry, dairy, and other livestock farmers and workers;
- Backyard bird flock owners;
- Veterinarians and veterinary staff;
- Animal health responders;
- Public health responders;
- Dairy laboratory workers;
- Food processing workers handling raw milk and other confirmed or potentially contaminated materials;
- Slaughterhouse workers performing certain tasks on lactating dairy cattle, including:
  - Unloading or handling live, lactating dairy cattle for slaughter, including working in holding pens and tasks involved with ante-mortem inspection;
  - Post-mortem processes, including the post-mortem inspection, handling, and transporting of viscera; and
  - Removing and transporting udders from dairy cattle for further processing or rendering.
- Zoo or other wild animal facility workers, such as:
  - Sanctuary workers;
  - Aquarium workers; and
  - Wild animal rehabilitation center workers.
- Hunters.

[1] Cleveland Clinic, *Bird Flu (Avian Influenza), available at* https://my.clevelandclinic.org/health/diseases/22401-bird-flu (last visited Mar. 7, 2025).
[2] Centers for Disease Control and Prevention, *About Bird Flu, available at* https://www.cdc.gov/bird-flu/about/index.html (last visited Mar. 7, 2025).
[3] *Id*.

***Symptoms and Complications***

The reported signs and symptoms of avian influenza virus infections in humans have ranged from no symptoms or mild symptoms to moderate-to-severe disease and complications, including resulting in death.[4]

Mild signs and symptoms may include:[5]

- Eye redness and irritation (the most common symptom among recent cases nationally);
- Mild fever;
- Cough;
- Sore throat;
- Runny or stuffy nose;
- Muscle or body aches;
- Headaches; and
- Fatigue.

Less common symptoms include diarrhea, nausea, or vomiting.[6]

Signs and symptoms of moderate-to-severe disease include:[7]

- High fever;
- Shortness of breath or difficulty breathing;
- Altered consciousness; and
- Seizures.

***Treatment & Vaccines***

Flu antiviral drugs can treat avian influenza virus infections. Individuals who develop bird flu symptoms following exposure to infected animals should seek treatment with flu antivirals as soon as possible.[8]

Individuals who have been exposed to infected animals while not wearing the recommended personal protective equipment (PPE) or experienced a breach in their PPE may also be offered flu antivirals, regardless of whether they have symptoms.[9]

According to the CDC, antiviral treatment works best within 48 hours of developing symptoms and should not be delayed while waiting for test results.[10]

At this time, there is no recommendation for people to be vaccinated against bird flu and there is no commercially available vaccine against avian influenza viruses. Seasonal flu vaccines are not designed or intended to protect against avian influenza viruses.[11]

[4] *Id.*
[5] *Id.*
[6] *Id.*
[7] *Id.*
[8] *Id.*
[9] *Id.*
[10] *Id.*
[11] *Id.*

### *Animal Impact*

Bird flu is widespread in wild birds worldwide[12] and is being reported in an increasing number of animals in addition to outbreaks in poultry and U.S. dairy herds.[13]

Wild birds that can carry avian influenza viruses include waterbirds (e.g. ducks, geese, and swans) and shorebirds (e.g. storks). While most wild birds can be infected with avian influenza viruses without being sick, poultry can get infected, become very sick, and die from certain avian influenza viruses. Many common songbirds are not likely to get infected with avian influenza viruses.[14]

Other mammals can also be infected with avian influenza viruses. In these animals, signs can range from mild-to-severe, including death. Recently[15] H5N1 bird flu has been detected in mammals, including dairy cows.[16]

### *Bird Flu in Humans[17]*

According to the CDC, the current public health risk for bird flu in humans is low. See the following illustrations from the CDC and the U.S. Department of Agriculture.

[12] World Organisation for Animal Health, *Avian Influenza, available at* https://www.woah.org/en/disease/avian-influenza/#ui-id-2 (last visited Mar. 7, 2025).
[13] *Supra* note 2.
[14] *Id*.
[15] U.S. Department of Agriculture, Animal and Plant Health Inspection Service, *Detections of Highly Pathogenic Avian Influenza, available at* https://www.aphis.usda.gov/livestock-poultry-disease/avian/avian-influenza/hpai-detections (last visited Mar. 7, 2025).
[16] *Supra* note 2.
[17] Centers for Disease Control and Prevention, *H5 Bird Flu: Current Situation, available at* https://www.cdc.gov/bird-flu/situation-summary/index.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fbird-flu%2Fphp%2Favian-flu-summary%2Findex.html&cove-tab=1 (last visited Mar. 7, 2025).

## Situation summary of confirmed and probable human cases since 2024

**Confirmed Cases** | Probable Cases

**State or territory**

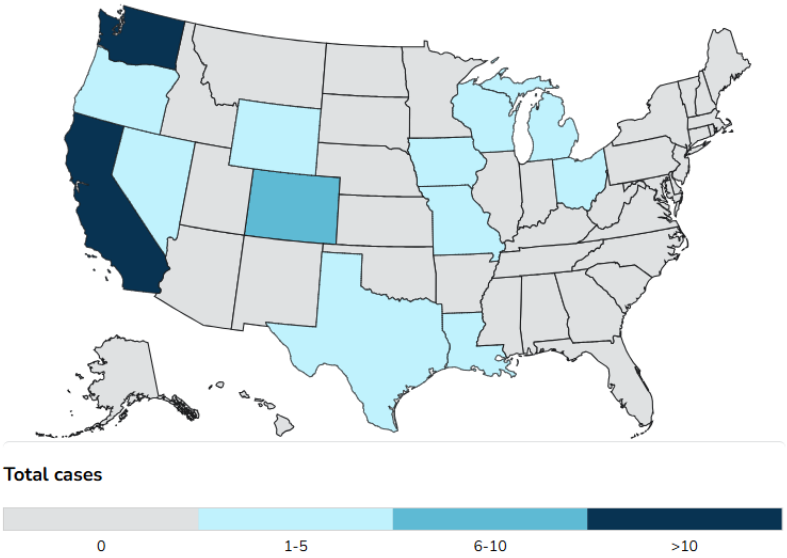
National

### National Total Cases: 70

| Cases | Exposure Source |
|---|---|
| 41 | Dairy Herds (Cattle)* |
| 24 | Poultry Farms and Culling Operations* |
| 2 | Other Animal Exposure† |
| 3 | Exposure Source Unknown‡ |

NOTE: One additional case was previously detected in a poultry worker in Colorado in 2022. Louisiana reported the first H5 bird flu death in the U.S.

*Exposure Associated with Commercial Agriculture and Related Operations
†Exposure was related to other animals such as backyard flocks, wild birds, or other mammals
‡Exposure source was not able to be identified




Confirmed Cases | **Probable Cases**

**State or territory**

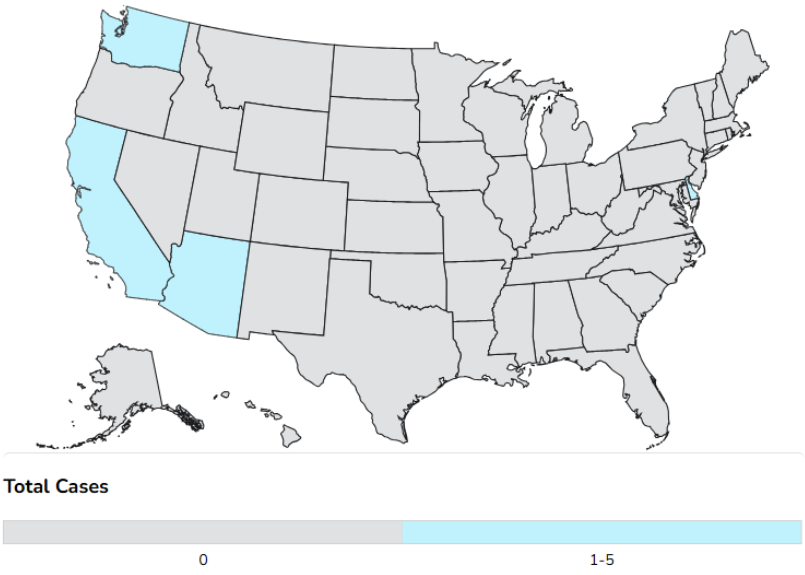
National

### National Total Cases: 7

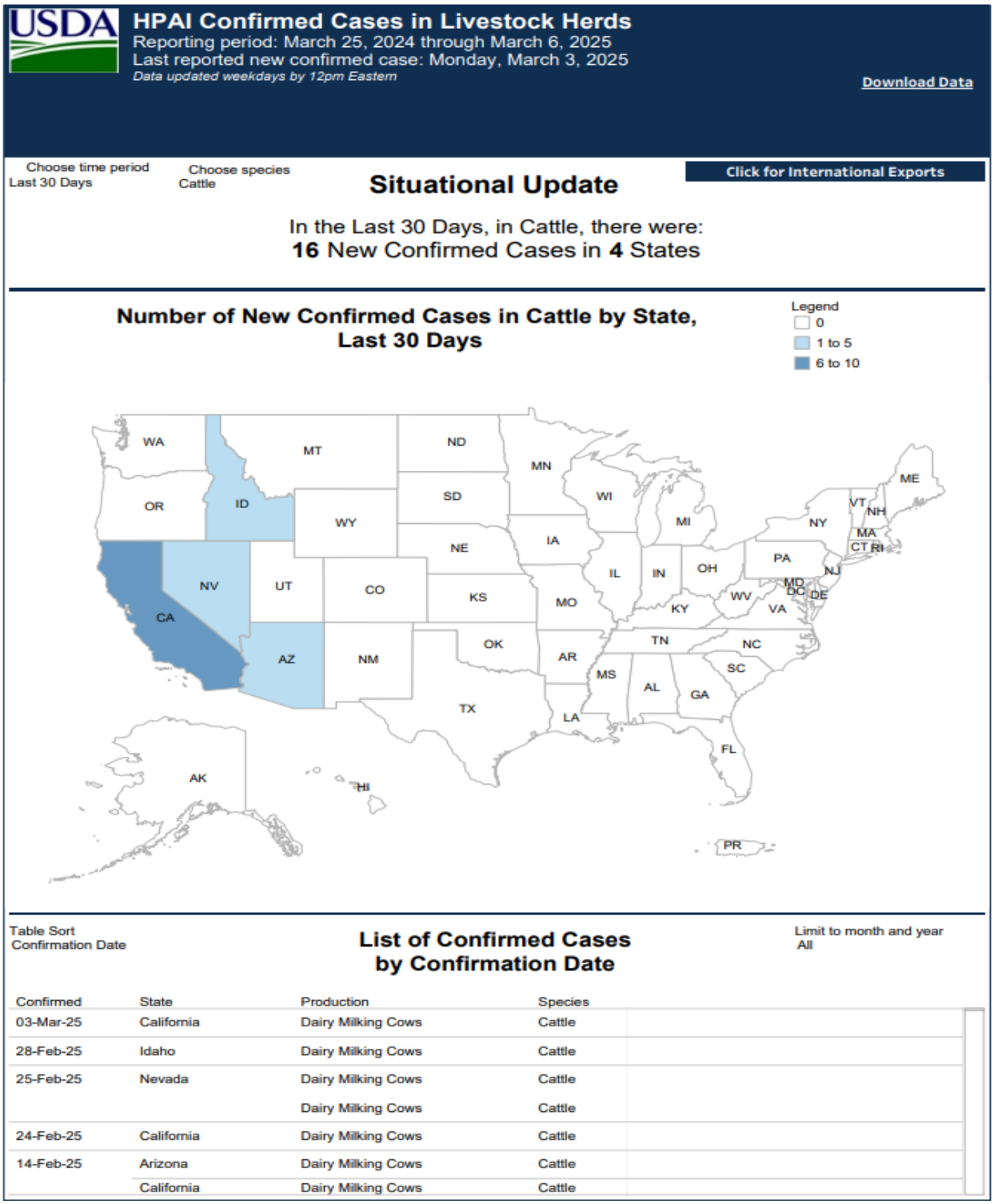
| Cases | Exposure Source |
|---|---|
| 1 | Dairy Herds (Cattle)* |
| 5 | Poultry Farms and Culling Operations* |
| 0 | Other Animal Exposure† |
| 1 | Exposure Source Unknown‡ |

NOTE: One additional case was previously detected in a poultry worker in Colorado in 2022. Louisiana reported the first H5 bird flu death in the U.S.

*Exposure Associated with Commercial Agriculture and Related Operations
†Exposure was related to other animals such as backyard flocks, wild birds, or other mammals
‡Exposure source was not able to be identified



***Bird Flu in Dairy Cows***[18]




[18] U.S. Department of Agriculture, Animal and Plant Health Inspection Service, *HPAI Confirmed Cases in Livestock, available at* https://www.aphis.usda.gov/livestock-poultry-disease/avian/avian-influenza/hpai-detections/hpai-confirmed-cases-livestock (last visited Mar. 7, 2025).

**Florida Executive Branch Structure**

Chapter 20, F.S., creates the organizational structure of the Executive Branch of state government, and s. 20.03, F.S., provides definitions for uniform nomenclature throughout the structure of the Executive Branch, including bodies created as adjuncts to Executive Branch departments, agencies, or offices. A "committee" or "task force" means an advisory body created without specific statutory enactment for a time not to exceed one year or created by specific statutory enactment for a time not to exceed three years and appointed to study a specific problem and recommend a solution or policy alternative with respect to that problem. Its existence terminates upon the completion of its assignment.

## III. Effect of Proposed Changes:

The bill contains four whereas clauses: three regarding cases of avian influenza and one clause stressing the need for preparation to prevent the spread of avian influenza in the state.

**Section 1** creates a non-statutory section of the Laws of Florida to require the Florida Department of Health (DOH) to establish a "Be Ready Task Force," a task force as defined in s. 20.03(5), F.S., to develop a comprehensive statewide response strategy for preventing the spread of avian influenza in Florida's livestock population and prepare for the probability of human-to-human transmission in this state. The DOH must provide administrative support to the task force.

The bill requires that the task force be composed of the following members:
- Two physicians specializing in infectious diseases who are on staff with a medical school in this state and have a background in public health, appointed by the Governor.
- The State Surgeon General and the Deputy Secretary of Health or their designees. The bill directs the State Surgeon General or his or her designee to serve as the chair of the task force.
- Two representatives of the Division of Emergency Management, appointed by the director.
- Three representatives from county health departments, with at least one representative from a rural county, appointed by the Governor.
- One representative of a water management district, appointed by the Governor.
- Two representatives of the Department of Agriculture and Consumer Services who have experience working with the livestock industry, appointed by the Commissioner of Agriculture.

The bill requires the task force to meet upon the call of the chair and as often as necessary to complete its duties. The task force may conduct its meetings through teleconference or other electronic means. Members of the task force are to serve without compensation but may be reimbursed for per diem and travel expenses as provided in s. 112.061, F.S.

The bill requires the task force to develop recommendations on all of the following:
- Monitoring and reporting livestock with avian influenza, including the location for each outbreak.
- Wastewater monitoring for avian influenza transmission.
- How to cost-effectively implement statewide testing for avian influenza.

- Ways in which the state can implement a statewide response to prevent the spread of avian influenza among livestock as well as humans.

The bill requires the task force to submit a report of its recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by October 1, 2025. The task force is dissolved upon submission of its report.

**Section 2** provides that the bill take effect upon becoming law.

## 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 requires the DOH to provide the task force with administrative support. This duty could have a workload and/or fiscal impact on the department.[19]

[19] The Department of Health has not provided an impact estimate to Senate staff.

The bill authorizes the reimbursement of task force members for per diem and travel expenses as provided in s. 112.061, F.S. This could result in a nominal fiscal impact to the state.

## VI. Technical Deficiencies:

None.

## VII. Related Issues:

None.

## VIII. Statutes Affected:

The bill creates undesignated sections of the Laws of Florida.

## IX. Additional Information:

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

None.

B. Amendments:

None.

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

521796

LEGISLATIVE ACTION

Senate . House

. . . . .

The Committee on Health Policy (Berman) recommended the following:

**Senate Amendment**

Delete line 72

and insert:

and the Speaker of the House of Representatives by December 1,

**By** Senator Berman

26-00693A-25 2025762__

A bill to be entitled

An act relating to preventing the spread of avian influenza; creating the Be Ready Task Force within the Department of Health for a specified purpose; providing for membership and meetings of the task force; requiring the task force to develop specified recommendations; requiring the task force to submit a report of its recommendations to the Governor and the Legislature by a specified date; providing for dissolution of the task force; providing an effective date.

WHEREAS, avian influenza cases are rising in the animal population in the United States, and

WHEREAS, there have been at least 61 reported cases of animal-to-human transmission since April 2024, and

WHEREAS, a recent fatal case in Louisiana showed a genetic mutation that could possibly lead to human-to-human transmission, and

WHEREAS, it is imperative that Florida convene a task force to prepare a comprehensive statewide response strategy to prevent the spread of avian influenza in this state, NOW, THEREFORE,

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

Section 1. <u>There is hereby created a Be Ready Task Force, a task force as defined in s. 20.03(5), Florida Statutes, within the Department of Health for the purpose of developing a</u>



**CODING:** Words ~~stricken~~ are deletions; words <u>underlined</u> are additions.

comprehensive statewide response strategy to prevent the spread of avian influenza in the livestock population of this state and preparing for the probability of human-to-human transmission of avian influenza in this state. The department shall provide administrative support to the task force.

(1)(a) The task force shall be composed of the following members:

1. Two physicians specializing in infectious diseases who are on staff with a medical school in this state and have a background in public health, appointed by the Governor.

2. The State Surgeon General and the Deputy Secretary of Health or their designees. The State Surgeon General or his or her designee shall serve as the chair of the task force.

3. Two representatives of the Division of Emergency Management, appointed by the director.

4. Three representatives from county health departments, with at least one representative from a rural county, appointed by the Governor.

5. One representative of a water management district, appointed by the Governor.

6. Two representatives of the Department of Agriculture and Consumer Services who have experience working with the livestock industry, appointed by the Commissioner of Agriculture.

(b) The task force shall meet upon the call of the chair and as often as necessary to complete its duties under this section. The task force may conduct its meetings through teleconference or other electronic means.

(c) Members of the task force shall serve without compensation, but may be reimbursed for per diem and travel

expenses as provided in s. 112.061, Florida Statutes.

(2) The task force shall develop recommendations on all of the following:

(a) Monitoring and reporting livestock with avian influenza, including the location for each outbreak.

(b) Wastewater monitoring for avian influenza transmission.

(c) How to cost-effectively implement statewide testing for avian influenza.

(d) Ways in which the state can implement a statewide response to prevent the spread of avian influenza among livestock as well as humans.

(3) The task force shall submit a report of its recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by October 1, 2025. The task force is dissolved upon submission of its report.

Section 2. This act shall take effect upon becoming a law.



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

The Florida Senate

# Committee Agenda Request

**To:** Senator Colleen Burton, Chair
Committee on Health Policy

**Subject:** Committee Agenda Request

**Date:** March 3, 2025

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I respectfully request that **Senate Bill #762**, relating to Preventing the Spread of Avian Influenza, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

cc:
Senator Gayle Harrell, Vice Chair
Allen Brown, Staff Director

Lori Berman

Senator Lori Berman
Florida Senate, District 26

File signed original with committee office

S-020 (03/2004)

**The Florida Senate**

# BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Health Policy

| | |
|---|---|
| BILL: | SB 942 |
| INTRODUCER: | Senator Burton |
| SUBJECT: | Invalid Restrictive Covenants in Health Care |
| DATE: | March 10, 2025 |
| REVISED: | |

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|---|---|---|---|---|
| 1. | Looke | Brown | HP | **Pre-meeting** |
| 2. | | | CM | |
| 3. | | | RC | |

## I. Summary:

SB 942 amends s. 542.336, F.S., to prohibit any restrictive covenant entered into with an allopathic or osteopathic physician which restricts the physician from practicing medicine in any geographic area for any period of time after the termination of his or her contract or other employment relationship. The bill provides exceptions from the prohibition for restrictive covenants related to research, related to physicians whose individual compensation is $250,000 per year or more, or related to physicians who have an ownership interest in a medical business, practice, management services organization, or entity of any kind who sells a specified type of related asset. The bill specifies that its provisions apply to restrictive covenants entered into on or after July 1, 2025.

The bill provides an effective date of July 1, 2025.

## II. Present Situation:

### Federal Antitrust Laws

In 1890, Congress passed the first antitrust law, the Sherman Act, as a comprehensive charter of economic liberty aimed at preserving free and unfettered competition as the rule of trade. Congress subsequently passed two additional antitrust laws in 1914: the Federal Trade Commission Act, which created the Federal Trade Commission (FTC), and the Clayton Act. Currently, these are the three core federal antitrust laws.[1]

[1] *See The Antitrust Laws*, Federal Trade Commission, *available at* https://www.ftc.gov/tips-advice/competition-guidance/guide-antitrust-laws/antitrust-laws (last visited Mar. 7, 2025).

***The Sherman Act***

The Sherman Act outlaws every contract, combination, or conspiracy in restraint of trade, and any monopolization, attempted monopolization, or conspiracy or combination to monopolize. The Sherman Act does not prohibit every restraint of trade – only those that are unreasonable. For example, an agreement between two individuals to form a partnership may restrain trade, but may not do so unreasonably, and thus may be lawful under the antitrust laws. In contrast, certain acts are considered "per se" violations of the Sherman Act because they are harmful to competition. These include plain arrangements among competing individuals or businesses to fix prices, divide markets, or rig bids.[2]

The penalties for violating the Sherman Act can be severe. Although most enforcement actions are civil, the Sherman Act is also a criminal law, and individuals and businesses that violate it may be prosecuted by the U.S. Department of Justice. Criminal prosecutions are typically limited to intentional and clear violations. The Sherman Act imposes criminal penalties of up to $10 million for a corporation and $1 million for an individual, along with up to 10 years in prison.[3] Under some circumstances, the maximum fines can reach twice the gain or loss involved.[4]

***The Federal Trade Commission Act***

The Federal Trade Commission Act prohibits unfair methods of competition and unfair or deceptive acts or practices. The U.S. Supreme Court has ruled that all violations of the Sherman Act also violate the FTC Act. Therefore, the FTC can bring cases under the FTC Act against the same kinds of activities that violate the Sherman Act. The FTC Act also reaches other practices that harm competition but may not fit neatly into categories of conduct formally prohibited by the Sherman Act. Only the FTC may bring cases under the FTC Act.[5]

***The Clayton Act***

The Clayton Act addresses specific practices that the Sherman Act does not clearly prohibit, such as mergers and interlocking directorates.[6] It also bans mergers and acquisitions where the effect may substantially lessen competition or create a monopoly. As amended by the Robinson-Patman Act of 1936, the Clayton Act also prohibits certain discriminatory prices, services, and allowances in dealings between merchants. The Clayton Act was amended again in 1976 by the Hart-Scott-Rodino Antitrust Improvements Act to require companies planning large mergers or acquisitions to notify the government of their plans in advance. Additionally, private parties are authorized to sue for triple damages when they have been harmed by conduct that violates either the Sherman or Clayton Act and to obtain a court order prohibiting the anticompetitive practice prospectively.[7]

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[2] *Id.*
[3] *Antitrust Enforcement and the Consumer*, U.S. Department of Justice, *available at* https://www.govinfo.gov/content/pkg/GOVPUB-J-PURL-LPS16084/pdf/GOVPUB-J-PURL-LPS16084.pdf (last visited Mar. 7, 2025). *See also* 15 U.S.C.A. § 2
[4] *Id.*
[5] *The Antitrust Laws*, Federal Trade Commission, *available at* https://www.ftc.gov/tips-advice/competition-guidance/guide-antitrust-laws/antitrust-laws (last visited Mar. 7, 2025).
[6] "Interlocking directorates" means the same person making business decisions for competing companies. *See also Id*.
[7] *Id.*

**Florida Antitrust Laws**

Florida law also provides protections against anticompetitive practices. Chapter 542, F.S., the Florida Antitrust Act of 1980, has a stated purpose to complement the body of federal law prohibiting restraints of trade or commerce in order to foster effective competition.[8] It outlaws every contract, combination, or conspiracy in restraint of trade or commerce in Florida[9] and any person from monopolizing or attempting or conspiring to monopolize any part of trade.[10]

***Contracts in Restraint of Trade or Commerce***

Generally, a contract in restraint of trade or commerce in Florida is unlawful.[11] However, non-competition restrictive covenants[12] contained in employment agreements that are reasonable in time, area, and line of business, are not prohibited.[13] In any action concerning enforcement of a restrictive covenant, a court may not enforce a restrictive covenant unless it is set forth in a writing signed by the person against whom enforcement is sought, and the person seeking enforcement of a restrictive covenant must prove the existence of one or more legitimate business interests justifying the restrictive covenant.[14] The term "legitimate business interest" includes, but is not limited to:

- Trade secrets;[15]
- Valuable confidential business or professional information that does not otherwise qualify as trade secrets;
- Substantial relationships with specific prospective or existing customers, patients, or clients;
- Customer, patient, or client goodwill associated with:
  - An ongoing business or professional practice, by way of trade name, trademark, service mark, or "trade dress;"
  - A specific geographic location; or
  - A specific marketing or trade area; or
- Extraordinary or specialized training.[16]

Any restrictive covenant not supported by a legitimate business interest is unlawful and is void and unenforceable.[17] A person seeking enforcement of a restrictive covenant must prove that the

[8] Section 542.16, F.S.
[9] Section 542.18, F.S.
[10] Section 542.19, F.S.
[11] Section 542.18, F.S.
[12] Section 542.335, F.S. employs the term "restrictive covenants" and includes all contractual restrictions such as noncompetition/nonsolicitation agreements, confidentiality agreements, exclusive dealing agreements, and all other contractual restraints of trade. *See Henao v. Prof'l Shoe Repair, Inc.*, 929 So.2d 723, 726 (Fla. 5th DCA 2006).
[13] Section 542.335(1), F.S.
[14] *Id*.
[15] Section 688.002(4), F.S., defines a trade secret as information, including a formula, pattern, compilation, program, device, method, technique, or process that derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.
[16] Section 542.335(1)(b), F.S.
[17] *Id*.

contractually specified restraint is reasonably necessary to protect the legitimate business interest or interests justifying the restriction.[18]

***Restrictive Covenants in Florida Health Care***

Under s. 542.336, F.S., a restrictive covenant entered into with a physician who practices a medical specialty in a county where one entity employs or contracts with all physicians who practice that specialty in that county, is not supported by a legitimate business interest and is void and unenforceable.[19] The restrictive covenant remains void and unenforceable until three years after the date on which a second entity that employs or contracts with one or more physicians who practice that specialty begins serving patients in that county.[20]

In *21st Century Oncology, Inc*., the plaintiff sought a preliminary injunction to enjoin the application and enforcement of s. 542.336, F.S. In August of 2019, the U.S. District Court for the Northern District of Florida denied the injunction. While s. 542.336, F.S., was found to impair the plaintiff's employment contracts within the meaning of the Contracts Clause, the court held that the degree of impairment did not outweigh the statute's significant, legitimate public purpose.[21]

## III. Effect of Proposed Changes:

SB 942 amends s. 542.336, F.S., to declare that any restrictive covenant entered into with an allopathic or osteopathic physician[22] which restricts the physician from practicing medicine in any geographic area for any period of time after the termination of his or her contract, partnership, employment, independent contractor arrangement, or professional relationship or other employment relationship is not supported by a legitimate business interest and is void and unenforceable.

The bill provides exceptions from the provisions of the bill described above for restrictive covenants that are:

- Related to any research conducted by the physician under the terms of a contract or in furtherance of a partnership, employment, or professional relationship, if the covenant does not impair the continuing care and treatment of a specific patient or patients whose care and treatment were part of the research;

[18] Section 542.335(1)(c), F.S.
[19] Section 542.336, F.S.
[20] *Id*.
[21] "The ostensible public purpose of section 542.336 is to reduce healthcare costs and improve patients' access to physicians. See § 542.336, Fla. Stat. (2019); ECF No. 64 at 8 (Attorney General's post-hearing brief, stating "section 542.336 explicitly sets forth its own rational basis in declaring that the restrictive covenants addressed by it are not supported by a legitimate business interest, restrict patient access to physicians, and increase costs"). It is well settled that access to affordable healthcare is a legitimate state interest." *21st Century Oncology, Inc. v. Moody*, 402 F. Supp. 3d 1351, 1359 (N.D. Fla. 2019).
[22] "Allopathy" is a system of medical practice that emphasizes diagnosing and treating disease and the use of conventional, evidence-based therapeutic measures (such as drugs or surgery). *See* Merriam-Webster Dictionary, "allopathy," *available at* https://www.merriam-webster.com/dictionary/allopathy (last visited Feb. 7, 2024). "Osteopathy" is a system of medical practice that emphasizes a holistic and comprehensive approach to patient care and utilizes the manipulation of musculoskeletal tissues along with therapeutic measures to prevent or treat disease. *See* Merriam-Webster Dictionary, *"osteopathy," available at* https://www.merriam-webster.com/dictionary/osteopathy (last visited Feb. 7, 2024).

- Related to physicians whose individual compensation is $250,000 per year or more. The bill defines individual compensation to mean:
  - For an employed physician, the amount of wages, bonuses, benefits, and salary paid to the physician for the previous tax year or expected to be paid for the current tax year; or
  - For a physician with a partnership or similar ownership interest in the profits of a practice, the amount of business income attributed to the physician for the previous tax year or expected to be attributed to the physician for the current tax year; or
- Related to physicians who have an ownership interest in a medical business, practice, management services organization, or entity of any kind and who sells:
  - The goodwill of such business, practice, or entity;
  - Any or all of his or her ownership interest in such business, practice, management services organization, or entity; or
  - Any or all portions of the assets of such business, practice, management services organization, or entity together with its goodwill and who contractually agrees with a buyer of such business, practice, management services organization, or entity, or portion thereof, to refrain from carrying on a competing business, practice, management services organization, or entity within a specified geographic area reasonably necessary to protect the legitimate business interest of the acquiring party or the acquired business, practice, management services organization, or entity.

The bill specifies that its provisions apply to restrictive covenants entered into on or after July 1, 2025.

The bill provides an effective date of July 1, 2025.

## 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:

Prohibiting restrictive covenants as provided in the bill may provide patients with more access to physicians and decrease health care costs.

C. Government Sector Impact:

None.

## VI. Technical Deficiencies:

None.

## VII. Related Issues:

None.

## VIII. Statutes Affected:

This bill substantially amends section 542.336 of the Florida Statutes.

## IX. Additional Information:

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

None.

B. Amendments:

None.

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

**By** Senator Burton

12-01473A-25 2025942__

A bill to be entitled

An act relating to invalid restrictive covenants in health care; amending s. 542.336, F.S.; specifying that certain restrictive covenants in employment agreements relating to certain licensed physicians are not supported by a legitimate business interest; declaring that such restrictive covenants are void and unenforceable; providing applicability; defining the term "compensation"; providing an effective date.

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

Section 1. Section 542.336, Florida Statutes, is amended to read:

542.336 Invalid restrictive covenants.—

(1) A restrictive covenant entered into with a physician who is licensed under chapter 458 or chapter 459 and who practices a medical specialty in a county wherein one entity employs or contracts with, either directly or through related or affiliated entities, all physicians who practice such specialty in that county is not supported by a legitimate business interest. The Legislature finds that such covenants restrict patient access to physicians, increase costs, and are void and unenforceable under current law. Such restrictive covenants ~~shall~~ remain void and unenforceable for 3 years after the date on which a second entity that employs or contracts with, either directly or through related or affiliated entities, one or more physicians who practice such specialty begins offering such specialty services in that county.



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

(2) A restrictive covenant entered into with a physician who is licensed under chapter 458 or chapter 459 which restricts the physician from practicing medicine in any geographic area for any period of time after the termination of a contract, a partnership, employment, an independent contractor arrangement, or a professional relationship is not supported by a legitimate business interest. Such restrictive covenants are void and unenforceable.

(a) This subsection does not apply to a restrictive covenant that is:

1. Related to any research conducted by the physician under the terms of a contract or in furtherance of a partnership, employment, or a professional relationship; provided, however, that the covenant does not impair the continuing care and treatment of a specific patient or patients whose care and treatment were part of the research.

2. Related to physicians whose individual compensation totals at least $250,000 per year. As used in this subparagraph, the term "compensation" means:

a. For an employed physician, the amount of wages, bonuses, benefits, and salary paid to the physician for the previous tax year or expected to be paid for the current tax year; or

b. For a physician with a partnership or similar ownership interest in the profits of a practice, the amount of business income attributed to the physician for the previous tax year or expected to be attributed to the physician for the current tax year.

3. For a physician who has any ownership interest in a medical business, practice, management services organization, or



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entity of any kind and who sells:

a. The goodwill of such business, practice, management services organization, or entity;

b. Any of his or her ownership interest in such business, practice, management services organization, or entity; or

c. Any portion of the assets of such business, practice, management services organization, or entity together with its goodwill and who contractually agrees with a buyer of such business, practice, management services organization, or entity, or portion thereof, to refrain from carrying on a competing business, practice, management services organization, or entity within a specified geographic area reasonably necessary to protect the legitimate business interest of the acquiring party or the acquired business, practice, management services organization, or entity.

(b) This subsection applies to restrictive covenants entered into on or after July 1, 2025.

Section 2. This act shall take effect July 1, 2025.



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

**The Florida Senate**

# BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Health Policy

| | |
|---|---|
| BILL: | SPB 7018 |
| INTRODUCER: | For consideration by the Health Policy Committee |
| SUBJECT: | OGSR/Parental Consent Requirements Before Terminating a Pregnancy |
| DATE: | March 10, 2025 |
| REVISED: | |

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|---|---|---|---|---|
| 1. | Davis | Brown | | **Pre-meeting** |

## I. Summary:

SPB 7018 saves an existing public record exemption from repeal under the Open Government Sunset Review Act. The exemption protects certain information that can be used to identify a minor who is petitioning for a judicial waiver of parental consent under the Parental Notice of and Consent for Abortion Act.

The exemption protects from disclosure any identifying information held by a circuit or appellate court, the Office of Criminal Conflict and Civil Regional Counsel, or the Justice Administrative Commission. These entities may obtain the information when the minor seeks a judicial waiver from a court, when the Office of Criminal Conflict and Civil Regional Counsel represents the minor in a court proceeding, or when the Justice Administrative Commission processes payments for a court-appointed private attorney who represents the minor.

The original exemption was enacted in 2020 and is scheduled for repeal on October 2, 2025, unless reviewed and saved through reenactment by the Legislature.

The bill provides an effective date of October 1, 2025.

## II. Present Situation:

### Public Records Law

#### *Background*

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

[1] FLA. CONST. art. I, s. 24(a).
[2] *Id*. *See also, Sarasota Citizens for Responsible Gov't v. City of Sarasota*, 48 So. 3d 755, 762-763 (Fla. 2010).

Chapter 119, F.S., known as the Public Records Act, constitutes the main body of public records laws.[3] The Public Records Act states that:

> [i]t is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.[4]

The Public Records Act typically contains general exemptions that apply across agencies. Agency- or program-specific exemptions often are placed in the substantive statutes relating to that particular agency or program.

***Legislative and Judicial Records***

The Public Records Act does not apply to legislative or judicial records.[5] Legislative records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are codified primarily in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the Legislature.

***"Public Records" Defined***

Section 119.011(12), F.S., defines "public records" to include:

> [a]ll documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business which are intended to "perpetuate, communicate, or formalize knowledge of some type."[6]

***Access***

The Florida Statutes specify conditions under which public access to governmental records must be provided. The Public Records Act guarantees every person's right to inspect and copy any state or local government public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.[7] A violation of the Public Records Act may result in civil or criminal liability.[8]

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[3] Public records laws are found throughout the Florida Statutes.
[4] Section 119.01(1), F.S.
[5] *Locke v. Hawkes*, 595 So. 2d 32, 34 (Fla. 1992); *see also Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995).
[6] *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc*., 379 So. 2d 633, 640 (Fla. 1980).
[7] Section 119.07(1)(a), F.S.
[8] Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

***The Legislature's Exclusive Authority to Create an Exemption***

Only the Legislature may create an exemption from public records requirements.[9] An exemption must be created by general law and must specifically state the public necessity justifying the exemption.[10] Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other substantive provisions[11] and the bill must pass by a two-thirds vote of the members present and voting in each house of the Legislature.[12]

***"Exempt" or "Confidential and Exempt"***

When creating a public records exemption, the Legislature may provide that a record is "exempt" or "confidential and exempt." There is a difference between records the Legislature has determined to be exempt from the Public Records Act and those that the Legislature has determined to be exempt from the Public Records Act *and confidential*.[13] Records designated as "confidential and exempt" are not subject to inspection by the public and may only be released under the circumstances defined by statute.[14] Records designated as "exempt" may be released at the discretion of the records custodian under certain circumstances.[15]

**Open Government Sunset Review Act**

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act (the Act), prescribe a legislative review process for newly created or substantially amended public records or open meetings exemptions,[16] with specified exceptions.[17] The Act requires the repeal of the exemption on October 2 of the fifth year after creation or substantial amendment. In order to save an exemption from repeal, the Legislature must reenact the exemption or repeal the sunset date.[18] In practice, many exemptions are continued by repealing the sunset date, rather than reenacting the exemption.

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.[19] An exemption serves an identifiable purpose if the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption and it meets one of the following purposes:

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[9] FLA. CONST. art. I, s. 24(c).
[10] *Id.*
[11] The bill may, however, contain multiple exemptions that relate to one subject.
[12] FLA. CONST. art. I, s. 24(c)
[13] *WFTV, Inc. v. The Sch. Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004).
[14] *Id.*
[15] *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).
[16] Section 119.15, F.S. Section 119.15(4)(b), F.S., provides that an exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings.
[17] Section 119.15(2)(a) and (b), F.S., provides that exemptions required by federal law or applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.
[18] Section 119.15(3), F.S.
[19] Section 119.15(6)(b), F.S.

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;[20]
- It protects sensitive, personal information, the release of which would be defamatory or would jeopardize an individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;[21] or
- It protects trade or business secrets.[22]

The Act also requires specified questions to be considered during the review process.[23] In examining an exemption, the Act directs the Legislature to question the purpose and necessity of reenacting the exemption.

If, in reenacting an exemption or repealing the sunset date, the exemption is *expanded*, then a public necessity statement and a two-thirds vote for passage are again required.[24] If the exemption is reenacted or saved from repeal without substantive changes or if the exemption is *narrowed*, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to expire, the previously exempt records will remain exempt unless otherwise provided by law.[25]

**Parental Notice of and Consent for Abortion Act**

In 2020, the Legislature amended The Parental Notice of Abortion Act to also require parental *consent* for a physician to perform or induce an abortion on a minor.[26] Unless certain exceptions apply,[27] the statute now prohibits a physician from performing or inducing an abortion on a minor unless the physician receives a notarized, written consent statement signed, dated, and initialed on each page by the mother, father, or legal guardian. The consenting parent or guardian must also provide the physician with a copy of a government-issued proof of identification. The statute prescribes language that the statement must include, requires documentation that must be

[20] Section 119.15(6)(b)1., F.S.
[21] Section 119.15(6)(b)2., F.S.
[22] Section 119.15(6)(b)3., F.S.
[23] Section 119.15(6)(a), F.S. The specified questions are:
- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

[24] FLA. CONST. art. I, s. 24(c).
[25] Section 119.15(7), F.S.
[26] Section 390.01114, F.S.; Ch. 2020-147, s. 2.
[27] The requirement for parental consent has several exceptions. It does not apply if: parental notice is not required because a medical emergency exists and notice cannot be accomplished; notice has been waived by a minor who is, or has been married, or has had the disability of nonage removed; or notice is waived because the patient has a minor child dependent on her. Parental consent is not required if notice is not required because the minor's parent or legal guardian has waived the right to receive notice and waived the right to consent in a signed and notarized statement. The consent requirement also does not apply if the physician certifies that a medical emergency exists and there is not enough time to obtain consent. Finally, consent is not required if the minor has obtained a judicial waiver from the circuit court. See s. 390.01114(5)(b), F.S. for the full text of the statute.

maintained in the physician's records, provides exceptions for when the consent requirement does not apply, and specifies a process to obtain a judicial waiver to "bypass" the consent requirement.[28]

**Judicial Waiver of Parental Notice and Consent Requirements, or the Judicial Bypass Proceeding**

The Parental Notice of Abortion Act authorizes a minor to petition a circuit court where she resides for a waiver of the parental notice and consent requirements. To initiate the process, a minor may file the petition under a pseudonym or by using initials, as provided by court rule. The petition must contain a statement that the petitioner is pregnant and that the notice and consent requirements of the law have not been waived. The court must advise the petitioner that she has a right to court-appointed counsel and if she requests counsel, it will be provided to her at no cost.[29]

Once a petition is filed, the court must rule and issue written findings of fact and conclusions of law within three business days after the petition is filed. This time period may be extended at the request of the minor.[30]

If the circuit court determines, by clear and convincing evidence, that the minor is sufficiently mature to decide whether to terminate her pregnancy, the court must issue an order authorizing the minor to consent to the abortion.[31] If the court finds that the minor does not possess the requisite maturity to make that determination, it must dismiss the petition.[32] If the court determines by a preponderance of the evidence that the minor is a victim of child abuse or sexual abuse inflicted by her parent or guardian, or if the court determines by clear and convincing evidence that the notification or consent requirement of a parent or guardian is not in her best interest, the court must issue an order authorizing the minor to consent to the performance or inducement of a termination of the pregnancy.[33]

**Roles of the Office of Criminal Conflict and Civil Regional Counsel and the Justice Administrative Commission**

***The Office of Criminal Conflict and Civil Regional Counsel***

The Legislature created the Office of Criminal Conflict and Civil Regional Counsel in 2007 to represent people entitled to court-appointed counsel.[34] When a minor initiates a judicial bypass proceeding in the circuit court, a private court-appointed attorney is available to represent her upon request.[35] The statute is clear that private court-appointed counsel approved for this type of work is to be used first for minors who request counsel, but if no attorney is available through

[28] Section 390.01114(5) and (6), F.S.
[29] Section 390.01114(6)(a), F.S.
[30] Section 390.01114(6)(b)1., F.S.
[31] Section 390.01114(6)(c), F.S.
[32] *Id*.
[33] Section 390.01114(6)(d), F.S.
[34] Ch. 2007-62, s. 1, Laws of Fla.
[35] The chief judge of the circuit maintains a list of qualified attorneys in private practice, by county and by category of cases, and provides the list to the clerk of court in each county. Section 27.40(3)(a), F.S.

the clerk's list of attorneys, then the Office of Criminal Conflict and Civil Regional Counsel in that area will supply an attorney for the proceedings.[36] Any record that could identify a minor while in an office's possession is exempt from public disclosure requirements.

***The Justice Administrative Commission***

The Justice Administrative Commission is a state agency that was created in 1965 to provide administrative services for judicial-related offices.[37] One of the Commission's roles is to process the invoices for the attorneys who volunteer for the judicial bypass cases. Similarly, any record that could identify a minor in the Commission's possession is exempt from public disclosure requirements.

According to the Justice Administrative Commission's staff, any invoice it receives from a private attorney does not contain the full name of the minor. The Commission asks the attorneys to use only the minor's initials when submitting an invoice. Once an invoice is received, the name "Jane Doe" is entered into the system and substituted for the minor's initials. If an attorney mistakenly submits a minor's first name, the staff redacts the name and then locks the redaction so that no one may discover it.

**Data Published by the Office of the State Courts Administrator – Annual Number of Petitions Filed for Judicial Bypass Waivers**

The Florida Supreme Court, through the Office of the State Courts Administrator, is required to report by February 1 of each year to the Governor, the President of the Senate, and the Speaker of the House of Representatives the number of petitions filed for judicial bypass waivers in the previous year for each circuit court. The report must also contain the timing and manner of disposal of the petitions by each circuit.[38] Below is a statewide summary of the number of petitions filed in the past five years.[39]

| Year | Total Petitions Filed |
|---|---|
| 2024 | 130 |
| 2023 | 170 |
| 2022 | 228 |
| 2021 | 216 |
| 2020 | 195 |
| **Total** | **939** |

**Professional Staff's Open Government Sunset Review**

During the summer and fall of 2025, Senate committee staff, working with staff from the House of Representatives, conducted an Open Government Sunset Review as required by statute. Staff surveyed the state county clerks of court, the Office of Criminal Conflict and Civil Regional

[36] Section 27.511(6)(a), F.S.
[37] See https://www.justiceadmin.org/.
[38] Section 390.01114(8), F.S.
[39] Florida Office of the State Court Administrator, *Fiscal Years 2020-2024, Parental Notice of and Consent for Abortion Act, Petitions Filed and Disposed By Circuit and County, January through December* (on file with the Senate Committee on Health Policy).

Counsel, and the Justice Administrative Commission to determine whether they supported continuing the public record exemption for minors seeking a judicial bypass.

***Data Reported from the County Clerks of Court for Judicial Bypass Waivers***

The 67 county clerks of court were surveyed to determine:

- The number of petitions that had been filed between January 2020 and November 2024, seeking a judicial waiver of parental notice and consent for termination of a pregnancy.
- The number of times the clerk's office had received a public records request for the minor's identifying information.
- Whether the office believed this information should be available to the public.
- Whether the office believed the exemption should be reenacted, repealed, or modified in some form.

Of the 67 clerk offices that received surveys, 53 offices responded for a response rate of 79 percent.

***Number of Petitions Filed Seeking a Judicial Waiver from January 2020 – November 2024***

The 53 clerk's offices reported that they had received a combined total of 726 petitions for judicial waiver.[40]

***Number of Public Records Requests Received from January 2020 – November 2024***

Only one office reported a request for identifying information in the five-year span.

***Whether the Minor's Identifying Information Should Be Made Available to the Public***

- No – 47
- Yes, because the information should be available to the minor's parents – 1
- Only if a criminal subpoena is involved – 1
- Did not answer the question – 4

***Whether the Exemption Should be Reenacted, Repealed, or Modified***

These responses varied but the majority responded that the exemption should be reenacted as it is currently written. The responses were:

- Reenact the exemption as it is currently written – 41
- Repeal the exemption because parents have a right to know – 2
- Reenact the exemption with changes because the minor's parents should know – 3
- Did not answer the question – 7

[40] The difference between the number of petitions reported by the Office of the State Courts Administrator, 939, and the number reported by the county clerks, 726, for a discrepancy of 213 petitions, could be explained by the fact that 14 county clerks did not respond to the survey.

**Data Reported from the Office of Criminal Conflict and Civil Regional Counsel and Justice Administrative Commission**

***Office of Criminal Conflict and Civil Regional Counsel***

Surveys were sent to the five regional offices, and four offices responded. The offices reported handling a total of 64 petitions from January 2020 through November 2024.

Three offices recommended reenacting the exemption as it currently exists, and one office recommended reenacting the exemption with changes.

***Justice Administrative Commission***

Because the Justice Administrative Commission serves in an administrative capacity to process the invoices for the attorneys who volunteer for the judicial bypass hearings, the Commission has no direct involvement with these minors. As such, the Commission did not register an opinion on whether the exemption should be repealed, reenacted as is, or reenacted with changes.

**Committee Open Government Sunset Review Recommendation**

Based upon a review of this public record exemption under the Open Government Sunset Review Act and information received from the clerks of county court, Offices of Criminal Conflict and Civil Regional Counsel, and the Justice Administrative Commission, committee staff recommends that the Legislature retain the public records exemption established in s. 390.01118, F.S. The clerks and volunteer attorneys support continuing the exemption to protect the privacy of the minor seeking to bypass the parental notification and consent requirements.

## III. Effect of Proposed Changes:

SPB 7018 continues a public records exemption that was created in 2020 which will otherwise be repealed on October 2, 2025. The exemption protects from disclosure any identifying information of a minor seeking a judicial bypass under the Parental Notice of and Consent for Abortion Act if the information is held by a circuit or appellate court, an Office of Criminal Conflict and Civil Regional Counsel, or by the Justice Administrative Commission.

**Section 1** amends s. 390.01118, F.S., to remove the scheduled repeal of the public records exemption for identifying information held by the circuit and appellate courts, the Offices of Criminal Conflict and Civil Regional Counsel, or the Justice Administrative Commission.

**Section 2** provides that the bill takes effect on October 1, 2025.

## IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. Because this bill continues a current public records exemption beyond its current date of repeal, it does not require an extraordinary vote for enactment.

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 s. 390.01118 of the Florida Statutes.

## IX. Additional Information:

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

None.

B. Amendments:

None.

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

**FOR CONSIDERATION By** the Committee on Health Policy

588-02007-25 20257018pb

A bill to be entitled

An act relating to a review under the Open Government Sunset Review Act; amending s. 390.01118, F.S., relating to an exemption from public records requirements for certain information that could identify a minor petitioning a court to waive parental consent requirements before terminating a pregnancy; deleting the scheduled repeal of the exemption; providing an effective date.

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

Section 1. Section 390.01118, Florida Statutes, is amended to read:

390.01118 Public records exemptions; minors seeking waiver of consent requirements.—Any information that can be used to identify a minor who is petitioning a circuit court for a judicial waiver, as provided in s. 390.01114, of the consent requirements under the Parental Notice of and Consent for Abortion Act is:

(1) Confidential and exempt from s. 24(a), Art. I of the State Constitution, if held by a circuit court or an appellate court.

(2) Confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, if held by the office of criminal conflict and civil regional counsel or the Justice Administrative Commission.

~~This section is subject to the Open Government Sunset Review Act~~



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

~~in accordance with s. 119.15 and shall stand repealed on October 2, 2025, unless reviewed and saved from repeal through reenactment by the Legislature.~~

Section 2. This act shall take effect October 1, 2025.



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