

Tab 1	SB 288 by Garcia ; (Identical to H 00033) Electronic Dissemination of Commercial Recordings and Audiovisual Works
Tab 2	SB 360 by Harrell ; (Identical to H 06037) Traveling Across County Lines to Commit a Burglary
Tab 3	SB 418 by Pizzo (CO-INTRODUCERS) Jones, Gruters, Perry ; (Identical to H 00055) Assistive Technology Advisory Council
Tab 4	SB 474 by Perry ; (Identical to H 00145) Recreational Off-highway Vehicles
Tab 5	CS/SB 520 by GO, Brandes (CO-INTRODUCERS) Rodrigues ; (Similar to CS/H 00703) Public Records and Public Meetings
Tab 6	CS/SB 566 by HP, Gruters ; (Similar to CS/H 00343) Mental Health Professional Licensure
Tab 7	SB 704 by Harrell ; (Similar to H 00479) Substance Abuse Service Providers
202734—A S L WD RC, Harrell Before L.27: 01/26 12:00 PM	
Tab 8	CS/SB 754 by TR, Gainer (CO-INTRODUCERS) Hooper, Rodrigues ; (Identical to CS/H 00223) Mobile Home Registration Periods
Tab 9	SM 826 by Wright (CO-INTRODUCERS) Harrell, Rodrigues ; (Identical to H 00505) Florida National Guard
Tab 10	SB 7024 by GO ; (Identical to H 07031) OGSR/Alleged Victim or Victim of Sexual Harassment
Tab 11	SB 7026 by GO ; (Compare to H 01443) OGSR/Dependent Eligibility Verification Services

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

RULES
Senator Passidomo, Chair
Senator Garcia, Vice Chair

MEETING DATE: Thursday, January 27, 2022
TIME: 9:00—11:00 a.m.
PLACE: Pat Thomas Committee Room, 412 Knott Building

MEMBERS: Senator Passidomo, Chair; Senator Garcia, Vice Chair; Senators Albritton, Baxley, Bean, Book, Boyd, Bracy, Brandes, Diaz, Farmer, Gibson, Gruters, Hutson, Mayfield, Powell, and Stargel

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 288 Garcia (Identical H 33)	Electronic Dissemination of Commercial Recordings and Audiovisual Works; Revising the definition of the term "electronic dissemination", etc. CM 11/02/2021 Favorable JU 01/18/2022 Favorable RC 01/27/2022 Favorable	Favorable Yeas 17 Nays 0
2	SB 360 Harrell (Identical H 6037, Compare S 158)	Traveling Across County Lines to Commit a Burglary; Deleting a requirement that travel across county lines be for a specified purpose in order to reclassify a burglary offense, etc. CJ 11/02/2021 Temporarily Postponed CJ 11/30/2021 Favorable JU 01/10/2022 Favorable RC 01/27/2022 Favorable	Favorable Yeas 11 Nays 6
3	SB 418 Pizzo (Identical H 55)	Assistive Technology Advisory Council; Revising provisions relating to the membership of and appointments and reappointments to the Assistive Technology Advisory Council; requiring council members to select a chair from among the council membership; revising provisions relating to committees appointed to perform the council's functions; expanding the council's functions to include fundraising activities, etc. ED 11/30/2021 Favorable CM 01/10/2022 Favorable RC 01/27/2022 Favorable	Favorable Yeas 17 Nays 0
4	SB 474 Perry (Identical H 145)	Recreational Off-highway Vehicles; Revising the definition of the term "ROV" to increase the weight limit of a specified vehicle, etc. AG 12/02/2021 Favorable TR 01/12/2022 Favorable RC 01/27/2022 Favorable	Favorable Yeas 17 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Rules

Thursday, January 27, 2022, 9:00—11:00 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	CS/SB 520 Governmental Oversight and Accountability / Brandes (Similar CS/H 703)	Public Records and Public Meetings; Providing an exemption from public records requirements for any personal identifying information of an applicant for president of a state university or a Florida College System institution held by a state university or a Florida College System institution; providing an exemption from public meetings requirements for any portion of a meeting held for the purpose of identifying or vetting applicants for president of a state university or a Florida College System institution, including any portion of a meeting which would disclose certain personal identifying information of such applicants; providing for future legislative review and repeal of the exemptions; providing a statement of public necessity, etc. ED 01/11/2022 Favorable GO 01/19/2022 Fav/CS RC 01/27/2022 Favorable	Favorable Yeas 12 Nays 5
6	CS/SB 566 Health Policy / Gruters (Similar CS/H 343, Compare CS/H 693, CS/S 768)	Mental Health Professional Licensure; Revising licensure requirements for clinical social workers, marriage and family therapists, and mental health counselors, etc. HP 12/02/2021 Fav/CS CF 01/11/2022 Favorable RC 01/27/2022 Favorable	Favorable Yeas 17 Nays 0
7	SB 704 Harrell (Similar H 479)	Substance Abuse Service Providers; Requiring service provider applicants to include the names and locations of certain recovery residences in their license application; requiring service providers to record specified information in the Department of Children and Families' Provider Licensure and Designations System after a specified date; providing civil penalties; prohibiting certified recovery residence administrators from actively managing more than a specified number of residents; requiring service providers to return an individual's personal effects upon the individual's discharge, etc. CF 11/30/2021 Favorable CA 01/18/2022 Favorable RC 01/27/2022 Favorable	Favorable Yeas 17 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Rules

Thursday, January 27, 2022, 9:00—11:00 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	CS/SB 754 Transportation / Gainer (Identical CS/H 223)	Mobile Home Registration Periods; Revising the registration and registration renewal periods for a mobile home owned by a natural person; requiring the Department of Highway Safety and Motor Vehicles, beginning on a specified date, to give customers the option to renew their registrations on their dates of birth in certain years; specifying permissible renewal periods for such renewals, etc. TR 12/01/2021 Fav/CS CA 01/18/2022 Favorable RC 01/27/2022 Favorable	Favorable Yeas 17 Nays 0
9	SM 826 Wright (Identical HM 505)	Florida National Guard; Urging Congress to impel the United States National Guard Bureau to examine the resource allocations of the Florida National Guard and allow an increase in its force structure, etc. MS 01/11/2022 Favorable RC 01/27/2022 Favorable	Favorable Yeas 17 Nays 0
10	SB 7024 Governmental Oversight and Accountability (Identical H 7031)	OGSR/Alleged Victim or Victim of Sexual Harassment; Revising an exemption from public records requirements for personal identifying information of the alleged victim in an allegation of sexual harassment or the victim of sexual harassment if such information identifies that person as an alleged victim or as a victim of sexual harassment; authorizing the alleged victim or the victim to waive confidentiality in writing; extending the date for future legislative review and repeal of the exemption; providing a statement of public necessity, etc. RC 01/27/2022 Favorable	Favorable Yeas 16 Nays 0
11	SB 7026 Governmental Oversight and Accountability (Compare H 1443, H 1445, S 1660, S 1662)	OGSR/Dependent Eligibility Verification Services; Designating the Department of Management Services, rather than the Division of State Group Insurance, as the entity that contracts for dependent eligibility verification services for the state group insurance program; authorizing the department or the contractor providing dependent eligibility verification services to require certain information from subscribers; revising the types of information that the department or a contractor providing eligibility verification services may require from subscribers in order to establish dependent eligibility for the state group insurance program, etc. RC 01/27/2022 Favorable	Favorable Yeas 17 Nays 0

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL: SB 288

INTRODUCER: Senator Garcia

SUBJECT: Electronic Dissemination of Commercial Recordings and Audiovisual Works

DATE: January 25, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Harmsen</u>	<u>McKay</u>	<u>CM</u>	Favorable
2.	<u>Ravelo</u>	<u>Cibula</u>	<u>JU</u>	Favorable
3.	<u>Harmsen</u>	<u>Phelps</u>	<u>RC</u>	Favorable

I. Summary:

SB 288 amends the True Origin of Digital Goods Act (Act) to include websites that provide commercial recordings, such as music, for *display or performance*. As enacted in 2015, the Act requires owners or operators of websites that disseminate commercial recordings or audiovisual works to Florida consumers to clearly post, and make readily accessible, the name of the operator or owner, their physical address, and their telephone number or e-mail address. A consumer may enjoin a violating website to require compliance with the Act and recover necessary expenses, including reasonable attorney fees. The additional language included under the bill appears to be aimed at covering situations where a commercial recording is used on a website through a streaming platform.

The bill takes effect on July 1, 2022.

II. Present Situation:

Florida True Origin of Digital Goods Act

The True Origin of Digital Goods Act¹ requires the owners or operators of websites that electronically disseminate commercial recordings or audiovisual works to Florida consumers to clearly post their true and correct name(s), physical address, and telephone number or e-mail address on their website.

A website electronically disseminates a commercial recording or audiovisual work by initiating the transmission of, making available, or otherwise offering it for distribution through the internet or another digital network. Any website that electronically disseminates such works must therefore post the above specific contact information.

¹ Section 501.155, F.S.

An owner, assignee, authorized agent, or licensee of a commercial recording or audiovisual work that appears on a website that lacks its owner's or operator's contact information may bring a private cause of action to obtain a declaratory judgment that the owner or operator's failure violates the Act. The owner, assignee, authorized agent, or licensee of the copyrighted work may also request an injunction to compel the website to comply with the Act. Prior to bringing a civil action, however, the aggrieved party must first make reasonable efforts to place the website's owner or operator on notice that they are violating the Act and that his or her failure to cure the violation within 14 days may result in the filing of a civil action.

Federal Copyright Law

The owner of original, copyrighted material has the exclusive rights to do and authorize any of the following:

- Reproduce the copyrighted work;
- Prepare derivative works based on the copyrighted work;
- Distribute copies of the copyrighted work to the public by sale, rental, lease, or lending;
- Publicly perform (or control the public performance of) the copyrighted work if it is a literary, musical, dramatic, choreographic, pantomime, motion picture, or other audiovisual copyrighted work;
- Publicly display (or control the public display of) the copyrighted work, if it is a literary, musical, dramatic, choreographic, pantomime, pictorial, graphic, or sculptural work—including individual images of a motion picture or audiovisual work; and
- Publicly perform sound recordings by means of a digital audio transmission.²

A display or performance is publicly available when it is (1) open or transmitted to the public or to any place where a substantial number of persons outside of a family and its friends are gathered, or (2) transmitted or communicated to the public through a device or process—whether or not the viewers view it in the same place or time.³

To display a work means to show a copy of it, either directly or by means of a film, slide, television image, or any other device or process. To perform a work means to recite, render, play, dance, or act it, either directly or by means of any device or process.⁴ Generally, the only distinction between a performance and a display of copyrighted material on the internet is that a performance occurs in a sequential, ongoing manner, while a display is static.⁵

Technological advances, such as faster internet connection and more powerful computer processors, have resulted the proliferation of streaming services, which in turn have made the

² 17 U.S.C. §§ 106-122, Copyrights. *See also*, U.S. Copyright Office, *Circular 1: Copyright Basics*, pp. 1-2 (Sept. 2021), <https://www.copyright.gov/circes/circ01.pdf> (last visited Nov. 1, 2021).

³ 17 U.S.C. § 101. *See also*, John Kennedy, Mary Rasenberger, Lorraine Ford and Joseph Fazio, *Internet Law and Practice- Intellectual Property Issues: Copyright: Public Performance and Display*, §12:13 (Nov. 2021).

⁴ 17 U.S.C. § 101. *See also*, *Information Law- Digital Copyright and Cyberspace- Network and Internet Issues, Public Display and Performance*, ch. 4 § 4:82 (May 2021).

⁵ *Id.*

public performance and display of copyrighted works over the internet more prevalent.⁶ Streaming copyrighted material over the internet has clearly been interpreted to constitute a public performance by courts throughout the U.S., but if done with proper authorization to distribute or perform the material from the copyright holder, is permissible under copyright law.⁷

Federal Digital Millennium Copyright Act

The Digital Millennium Copyright Act (DMCA) updated federal copyright law to address the relationship between copyrighted material and the internet. To provide certainty regarding liability for copyright infringement while balancing the rights of copyright holders, the DMCA created the notice-and-takedown system.⁸ This system requires online service providers to expeditiously remove infringing content after receipt of notice from a copyright holder.⁹ As the internet, related consumer activity, and specifically third party posting of copyrighted content continues to grow, so have takedown notices.¹⁰ For example, Google received take down notices for approximately three million URLs in 2013, as of October 21, 2021, it received notices identifying 5.3 billion URLs to be taken down.¹¹

The DMCA also requires online service providers to designate an agent to receive copyright owners' notices, and provide the agent's contact information on their websites.

Protecting Lawful Streaming Act

The Consolidated Appropriations Act of 2021 created the Protecting Lawful Streaming Act (PLSA),¹² which increases the federal penalty for illegal streaming from a misdemeanor to a felony. The act of offering copyrighted material for download without specific license or

⁶ U.S. Department of Commerce Internet Policy Task Force, *White Paper on Remixes, First Sale, and Statutory Damages: Copyright Policy, Creativity, and Innovation in the Digital Economy*, pp. 40-43 (Jan. 2016),

<https://www.uspto.gov/sites/default/files/documents/copyrightwhitepaper.pdf> (last visited Nov. 1, 2021). See also, Congressional Research Service, *Illegal Internet Streaming of Copyrighted Content: Legislation in the 112th Congress* (Aug. 29, 2011), <https://www.everycrsreport.com/reports/R41975.html#fn19> (last visited Nov. 1, 2021).

⁷ See, e.g., *Warner Bros. Entertainment Inc. v. WTV Systems, Inc.*, 824 F. Supp.2d 1003, 1010-1011 (C.D. Cal. 2011). *A&M Records, Inc. v. Napster, Inc.*, 114 F. Supp.2d 896 (N.D. Cal. 2000), *aff'd in relevant part*, 239 F.3d 1004 (9th Cir. 2001).

⁸ 17 U.S.C. § 512 (2)(b)-(d). U.S. Copyright Office, *The Digital Millennium Copyright Act: Section 1202- Copyright Management Information Protection*, <https://www.copyright.gov/dmca/> (last visited Nov. 1, 2021). See also, U.S. Copyright Office, *Section 512 Report*, pp. 1, 8 (May 2020), available at <https://www.copyright.gov/policy/section512/section-512-full-report.pdf> (last visited Nov. 1, 2021).

⁹ U.S. Copyright Office, *Section 512 of Title 17: Resources on Online Service Provider Safe Harbors and Notice-and-Takedown System* (May 21, 2020), <https://www.copyright.gov/512/> (last visited Nov. 1, 2021). See also, 17 U.S.C. §§512(b)-(d)

¹⁰ See also, U.S. Copyright Office, *Section 512 Report*, pp. 10 (May 2020), available at <https://www.copyright.gov/policy/section512/section-512-full-report.pdf> (last visited Nov. 1, 2021).

¹¹ *Id.* at 31-32, citing Google, *How Google Fights Piracy* (2018), https://www.blog.google/documents/25/GO806_Google_FightsPiracy_eReader_final.pdf (last visited Nov. 1, 2021). See also, *Google Transparency Report*, available at <https://transparencyreport.google.com/copyright/overview> (last visited Nov. 1, 2021).

¹² 18 U.S.C. 2319C, "Illicit Digital Transmission Services."

authorization is separately classified a felony under the No Electronic Theft (NET) Act, but this provision did not cover streaming copyrighted material.¹³

Specifically, the PLSA targets individuals who act (1) willfully, (2) for purposes of commercial advantage or private financial gain, and (3) offer or provide to the public a digital transmission service. Additionally, their digital transmission service must:¹⁴

- Be primarily designed or provided for the purpose of publicly performing copyright-protected works by digital transmission without the copyright owner’s authority;
- Have no commercially-significant purpose or use other than to publicly perform copyright-protected work by an unauthorized digital transmission; or
- Be intentionally marketed by or at the direction of a person to promote its use in publicly performing copyright-protected works by means of an unauthorized digital transmission.

III. Effect of Proposed Changes:

The bill amends s. 501.155, F.S., to expand the definition of “electronic dissemination” to include transmitting, making available, or otherwise offering a commercial recording or audiovisual work for distribution, *display*, or *performance*. As a result, any website that electronically transmits, makes available, or offers a display or performance must post the website operator’s or owner’s contact information and is subject to injunction and other judgments under the Florida True Origin of Digital Goods Act.

Although the terms “display” and “performance” are not defined under the bill, courts are likely to rely on how the terms are utilized under federal copyright law.¹⁵

The bill provides an effective date of July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹³ 17 U.S.C. 506. *See also*, Michael Antonucci, *New Legislation: CASE Act and Protecting Lawful Streaming Act* (Mar. 18, 2021), <https://www.mondaq.com/unitedstates/trademark/1047506/new-legislation-case-act-and-protecting-lawful-streaming-act> (last visited Nov. 1, 2021).

¹⁴ *See generally*, Kevin Madigan, Copyright Alliance, *Protecting Lawful Streaming Act Signed Into Law: What you Need to Know* (Jan. 12, 2021), <https://copyrightalliance.org/protecting-lawful-streaming-act-signed/> (last visited Nov. 1, 2021).

¹⁵ *See* footnote 4 and accompanying text.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

For a court to exercise jurisdiction over a respondent, it must have both subject matter jurisdiction and personal jurisdiction. State courts have general jurisdiction, and therefore a claim made under a state statute meets the subject matter jurisdiction requirement.¹⁶ In order to establish jurisdiction, a respondent must have minimum contacts with the state in which the court sits so that the court may exercise power over that respondent.¹⁷ A non-resident respondent, for example, may have sufficient contacts with Florida if he or she commits acts expressly enumerated in Florida's long-arm statute.¹⁸ Alternately, the non-resident respondent may be subject to a Florida court's personal jurisdiction because he or she has minimum contacts with the state that are otherwise unrelated to matter that brings him or her into court.¹⁹ Examples of sufficient minimum contacts include frequent business travel to the state, owning a company with a Florida office branch, or subjecting oneself to the court's jurisdiction by presenting oneself in the Florida court.²⁰ These jurisdictional requirements ensure that a respondent has sufficient notice and due process afforded to him or her under the U.S. Constitution before his or her rights are subjected to the court.²¹

Whether a non-resident internet company that electronically disseminates commercial recordings or audiovisual works into Florida has sufficient minimum contacts with the state is a fact-specific question that would likely need to be addressed on a case-by-case basis by a court.²²

Content-neutral regulations are legitimate if they advance important governmental interests that are not related to suppression of free speech, and do not substantially burden more speech than necessary to further those interests.²³ However, a law may be determined to be overbroad if a "substantial number of its applications are unconstitutional, judged in relation to the statute's plainly legitimate sweep."²⁴

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

None.

¹⁶ *Caiazzo v. American Royal Arts Corp.*, 73 So. 3d 245, 250 (Fla. 4th DCA 2011).

¹⁷ *Id.*

¹⁸ *Id.*; § 48.193, F.S.

¹⁹ *Caiazzo v. American Royal Arts Corp.*, 73 So. 3d 245, 250 (Fla. 4th DCA 2011).

²⁰ *Id.*

²¹ *Id.* at 250-251.

²² See *Caiazzo v. American Royal Arts Corp.*, 73 So. 3d 245, (Fla. 4th DCA 2011); *Zippo Mfg. Co. v. Zippo Dot Com, Inc.*, 952 F. Supp. 1119, 1124 (W.D. Pa. 1997).

²³ *Turner Broadcasting System, Inc. v. F.C.C.*, 520 U.S. 180,189 (U.S. 1997).

²⁴ *U.S. v. Stevens*, 559 U.S. 460 (2010), quoting, *Washington State Grange v. Washington State Republican Party*, 552 U.S. 442, 449, n. 6, (2008).

B. Private Sector Impact:

Parties involved in the litigation provided for under the Act will incur costs related to bringing or defending the action.

C. Government Sector Impact:

Florida courts may see an increase in case filings under this law.

VI. Technical Deficiencies:

None.

VII. Related Issues:

It is unclear whether Florida could assert jurisdiction over foreign websites should an aggrieved party attempt to enforce the disclosure requirements of this bill against a website owner or operator located outside of Florida. It can be assumed that website owners or operators located outside of Florida are not expected to respond to lawsuits or submit willingly to jurisdiction in Florida courts. As such, any proceedings against owners or operators of websites located outside of Florida may end in default judgments.

Following a default or other declaratory judgment, the aggrieved party could proceed with third party injunctions to discourage Internet service providers, hosting services, payment services, or other Internet website services from working with websites that fail to disclose their personal information required by this bill. For example, ISP Terms of Service Agreements frequently forbid the user website from engaging in illegal activity.

This legislation captures a wide array of behaviors due to the broad definitions of the terms “commercial recording or audiovisual work,” “electronic dissemination,” “performance,” and “display” used. As a result, many, if not all, private individuals having a website may be required to disclose their true and correct name, physical address, and telephone number or e-mail address. For example, under these definitions, a teenager who creates her own website for the purpose of posting self-produced recordings or audiovisual works may be required to provide the identifying information. Moreover, the true target for the injunction and further consequences apparently are those websites that do not provide the identifying information.

An individual may be able to display or perform a commercial recording or audiovisual work for distribution to a sufficiently narrow group so that the act does not constitute a “public” display or performance under federal copyright law. However, this bill does not discern between a public or private display or performance.

VIII. Statutes Affected:

This bill substantially amends section 501.155 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 Garcia

37-00471-22

2022288__

1 A bill to be entitled
2 An act relating to electronic dissemination of
3 commercial recordings and audiovisual works; amending
4 s. 501.155, F.S.; revising the definition of the term
5 "electronic dissemination"; providing an effective
6 date.

7
8 Be It Enacted by the Legislature of the State of Florida:

9
10 Section 1. Paragraph (b) of subsection (3) of section
11 501.155, Florida Statutes, is amended to read:

12 501.155 Electronic dissemination of commercial recordings
13 or audiovisual works; required disclosures; injunctive relief.-

14 (3) DEFINITIONS.-As used in this section, the term:

15 (b) "Electronic dissemination" means initiating a
16 transmission of, making available, or otherwise offering a
17 commercial recording or audiovisual work for distribution,
18 display, or performance through the Internet or other digital
19 network, regardless of whether another person has previously
20 electronically disseminated the same commercial recording or
21 audiovisual work.

22 Section 2. This act shall take effect July 1, 2022.

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

1/27/22

Meeting Date

288

Bill Number or Topic

Rules

N/A

Committee

Amendment Barcode (if applicable)

Name **Edgar Castro**

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Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Recording Industry Association of America

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL: SB 360

INTRODUCER: Senator Harrell

SUBJECT: Traveling Across County Lines to Commit a Burglary

DATE: January 25, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Stokes</u>	<u>Jones</u>	<u>CJ</u>	Favorable
2.	<u>Davis</u>	<u>Cibula</u>	<u>JU</u>	Favorable
3.	<u>Stokes</u>	<u>Phelps</u>	<u>RC</u>	Favorable

I. Summary:

SB 360 amends s. 843.22, F.S., which provides an enhanced penalty for persons who travel across county lines with the intent to commit a burglary. This bill removes the requirement that the purpose of the travel must have been to thwart law enforcement attempts to track the items stolen in the burglary.

This bill may have a positive indeterminate prison bed impact. See Section V. Fiscal Impact Statement.

This bill is effective October 1, 2022.

II. Present Situation:

Organized theft is a growing problem across the country. Offenders who travel for the purpose of committing theft, fraud, and ID theft are often referred to as “felony lane gangs.” The term “felony lane gang” was given to the groups of thieves because they often cash stolen checks using stolen driver licenses in a bank’s drive through lane located farthest from video cameras and tellers to avoid detection.¹ Felony lane gangs originated in south Florida, and according to the FBI, these gangs often commit bank fraud after smash-and-grab theft of identity documents.² This type of crime scheme has not only occurred throughout Florida, but has become an interstate criminal organization. Recently, several members of a felony lane gang based in

¹ U.S. Immigration and Customs Enforcement, *Leader of Florida’s Million Dollar ‘Felony Lane Gang’ Sentenced to More Than 15 Years in Prison* (March 10, 2014) <https://www.ice.gov/news/releases/leader-floridas-million-dollar-felony-lane-gang-sentenced-more-15-years-prison>.

² South Florida Sun Sentinel, *Is the Felony Lane Gang at it again? Man held in ID theft heist*, Mario Ariza, September 17, 2019, available at <https://www.sun-sentinel.com/news/crime/fl-ne-felony-lane-gang-again-20190917-xnbass6zhbbvipdb4hhcw5qui-story.html> (last visited Jan. 5, 2022).

Florida were arrested and indicted in Oregon after they traveled there for the purpose of burgling vehicles and committing bank fraud and identity theft.³

Similarly, organized retail theft continues to be a problem. A crime and safety analyst for News4Jax has stated that it is difficult to track down retail theft suspects because “they’re always in motion. They’re always moving. . . . You have to have a defined suspect, basically, have them on surveillance more than once.”⁴ In 2019, Florida Department of Law Enforcement (FDLE) agents arrested three individuals who were suspected of an elaborate scheme that stole merchandise worth thousands of dollars from retailers across the southeast, the suspects printed and affixed false UPC barcodes in the place of valid barcodes in Target and Home Depot stores, completing more than 100 thefts in 23 Florida counties. Grand theft was among the charges filed against at least one of the suspects.⁵

Burglary

Section 810.02(1), F.S., provides that a person commits burglary by:

- Entering a dwelling,⁶ structure,⁷ or conveyance⁸ with the intent to commit an offense therein, unless the premises are open to the public or the person’s entry is licensed or invited; or
- Notwithstanding a licensed or invited entry, remaining in a dwelling, structure, or conveyance:
 - Surreptitiously, with the intent to commit an offense therein;
 - After permission to remain is withdrawn, with the intent to commit an offense therein; or

³ The Department of Justice, United States Attorney’s Office, District of Oregon, *Felony Lane Gang Member Sentenced in Bank Fraud Scheme*, May 3, 2021, available at <https://www.justice.gov/usao-or/pr/felony-lane-gang-member-sentenced-bank-fraud-scheme> (last visited Jan. 5, 2022).

⁴ News4Jax, *Theft ring stole at least \$83K in merchandise from home improvement stores*, Allyson Henning, June 20, 2019, available at [https://www.news4jax.com/news/2019/06/21/theft-ring-stole-at-least-83k-in-merchandise-from-home-improvement-stores/#:~:text=Theft%20ring%20stole%20at%20least%20\\$83K%20in%20merchandise,stores%20between%202017%20and%202019,%20police%20reports%20show](https://www.news4jax.com/news/2019/06/21/theft-ring-stole-at-least-83k-in-merchandise-from-home-improvement-stores/#:~:text=Theft%20ring%20stole%20at%20least%20$83K%20in%20merchandise,stores%20between%202017%20and%202019,%20police%20reports%20show) (last visited Jan. 5, 2022).

⁵ News4Jax, *FDLE busts multi-state organized retail theft ring*, Steve Patrick, November 25, 2019, available at <https://www.news4jax.com/news/2019/11/25/fdle-arrests-3-for-multi-state-organized-theft-ring/> (last visited Jan. 5, 2022).

⁶ Section 810.011(2), F.S., defines “dwelling,” to mean a building or conveyance of any kind, including any attached porch, whether such building or conveyance is temporary or permanent, mobile or immobile, which has a roof over it and is designed to be occupied by people lodging therein at night, together with the curtilage thereof. However, during the time of a state of emergency declared by executive order or proclamation of the Governor under chapter 252 and within the area covered by such executive order or proclamation and for purposes of ss. 810.02 and 810.08 only, the term includes such portions or remnants thereof as exist at the original site, regardless of absence of a wall or roof.

⁷ Section 810.011(1), F.S., defines “structure,” to mean a building of any kind, either temporary or permanent, which has a roof over it, together with the curtilage thereof. However, during the time of a state of emergency declared by executive order or proclamation of the Governor under chapter 252 and within the area covered by such executive order or proclamation and for purposes of ss. 810.02 and 810.08 only, the term means a building of any kind or such portions or remnants thereof as exist at the original site, regardless of absence of a wall or roof.

⁸ Section 810.011(3), F.S., defines “conveyance,” to mean any motor vehicle, ship, vessel, railroad vehicle or car, trailer, aircraft, or sleeping car; and “to enter a conveyance” includes taking apart any portion of the conveyance. However, during the time of a state of emergency declared by executive order or proclamation of the Governor under chapter 252 and within the area covered by such executive order or proclamation and for purposes of ss. 810.02 and 810.08 only, the term “conveyance” means a motor vehicle, ship, vessel, railroad vehicle or car, trailer, aircraft, or sleeping car or such portions thereof as exist.

- To commit or attempt to commit a forcible felony.⁹

A burglary is a felony offense classified according to the offense's specific circumstances, as follows:

- Unarmed burglary of an unoccupied structure or unoccupied conveyance (no assault or battery) is a Level 4 third degree felony.¹⁰
- Unarmed burglary of an occupied structure (no assault or battery) is a Level 6 second degree felony.¹¹
- Unarmed burglary of a dwelling, an occupied conveyance, or an authorized emergency vehicle (no assault or battery) is a Level 7 second degree felony.¹²
- Burglary is a Level 8 first degree felony punishable by a terms of years not exceeding life imprisonment if, in the course of committing the offense, the offender:
 - Makes an assault or battery upon any person;
 - Is or becomes armed within the dwelling, structure, or conveyance, with explosives or a dangerous weapon; or
 - Enters an occupied or unoccupied dwelling or structure, and:
 - Uses a motor vehicle as an instrumentality, other than merely as a getaway vehicle, to assist in committing the offense, and thereby damages the dwelling or structure; or
 - Causes damage to the dwelling or structure, or to property within the dwelling or structure in excess of \$1,000.¹³

Traveling Across County Lines

In 2014, as a response to a “wave” of burglaries in Florida, the Legislature enacted laws to reclassify the crime of burglary to a higher degree when the offender traveled to commit the crime. The Sheriff of Martin County in 2013 stated that traditional law enforcement methods, “such as using local pawn shop databases . . . , confidential informants . . . proactive police patrols, . . . or targeted patrols,” become less effective with these crimes. According to the Sheriff, it is difficult for law enforcement to establish a pattern and track criminals when they travel from their home county to neighboring counties to commit crimes.¹⁴

Section 843.22, F.S., provides that if a person who commits a burglary travels any distance with the intent to commit the burglary in a county in this state other than the person's county of residence, the degree of the burglary is reclassified to the next higher degree if the purpose of the person's travel is to thwart law enforcement attempts to track the items stolen in the burglary.¹⁵

⁹ A “forcible felony” is treason; murder; manslaughter; sexual battery; carjacking; home-invasion robbery; robbery; burglary; arson; kidnapping; aggravated assault; aggravated battery; aggravated stalking; aircraft piracy; unlawful throwing, placing, or discharging of a destructive device or bomb; and any other felony which involves the use or threat of physical force or violence against any individual. Section 776.08, F.S.

¹⁰ Sections 810.02(4)(a) and (b) and 921.0022(3)(d), F.S.

¹¹ Sections 810.02(3)(c) and 921.0022(3)(f), F.S.

¹² Sections 810.02(3)(a), (b), (d), and (e) and 921.0022(3)(g), F.S.

¹³ Sections 810.02(2)(a)2. and 921.0022(3)(h), F.S.

¹⁴ WFSU News, *Sheriff Enlists Legislative Help to Crack Down on Growing Problem: ‘Pillowcase Burglars,’* Sascha Corder, December 18, 2013, available at <https://news.wfsu.org/state-news/2013-12-18/sheriff-enlists-legislative-help-to-crack-down-on-growing-problem-pillowcase-burglars> (last visited Jan. 5, 2022).

¹⁵ Section 843.22(2), F.S.

County of residence is the county within this state that a person resides. Evidence of a person's county of residence includes, but is not limited to:

- The address on a person's driver license or state identification card;
- Records of real property or mobile home ownership;
- Records of a lease agreement for residential property;
- The county in which a person's motor vehicle is registered;
- The county in which a person is enrolled in an educational institution; and
- The county in which a person is employed.¹⁶

For purposes of sentencing, a burglary that is reclassified under this section is ranked one level above the ranking specified in s. 921.0022 or s. 921.0023, F.S., for the offense committed.¹⁷

Severity Ranking Chart

Section 921.0022(1) and (2), F.S., provides the offense severity ranking chart that must be used with the Criminal Punishment Code worksheet to compute a sentence score for each felony offender whose offense was committed on or after October 1, 1998. The chart has 10 offense levels, ranked from least severe to most severe.

Section 921.0023, F.S., provides that until the Legislature specifically assigns an offense to a severity level in the offense severity ranking chart, the severity level is within the following parameters:

- A third degree felony is within offense level 1;
- A second degree felony is within offense level 4;
- A first degree felony is within offense level 7;
- A first degree punishable by life felony is within offense level 9; and
- A life felony is within offense level 10.

Reclassification

Florida currently has various statutes that reclassify criminal offenses under specified circumstances. Generally, criminal laws provide for reclassification to the next highest degree. Reclassifying an offense has the effect of increasing the maximum sentence that can be imposed for an offense. The maximum sentence that can be imposed for a criminal offense is generally based on the degree of the misdemeanor or felony. These are the maximum sentences provided in statute:

- Sixty days in a county jail for a second degree misdemeanor;
- One year in a county jail for a first degree misdemeanor;
- Five years in state prison for a third degree felony;
- Fifteen years in state prison for a second degree felony; and
- Generally, 30 years in state prison for a first degree felony.¹⁸

¹⁶ Section 843.22(1)(a), F.S.

¹⁷ Section 843.22(2), F.S.

¹⁸ Section 775.082, F.S. (maximum penalties). Fines may also be imposed, and those fines escalate based on the degree of the offense. Section 775.082, F.S., provides the following maximum fines: \$500 for a second degree misdemeanor; \$1,000 for a first degree misdemeanor; \$5,000 for a third degree felony; and \$10,000 for a second degree felony and a first degree felony.

Examples of criminal offenses that provide for such reclassification include, in part:

- A violation of driving while a license is suspended is a second degree misdemeanor for a first offense.¹⁹ A second or subsequent conviction is reclassified from a second degree misdemeanor to a first degree misdemeanor.²⁰ Further, a third or subsequent conviction is reclassified to a third degree felony if the violation or the most recent prior conviction is related to a violation of specified driving offenses.²¹
- A violation of the theft statute under s. 812.014, F.S., for petit theft offenses are reclassified when a person has prior theft convictions.²² For example, a petit theft where the property is valued at \$100 or more, but less than \$750, is a first degree misdemeanor²³ but a person who commits petit theft and who previously was convicted two or more times for a theft commits a third degree felony.²⁴

III. Effect of Proposed Changes:

This bill amends s. 843.22, F.S., which provides an enhancement for persons who travel across county lines with the intent to commit a burglary. This bill removes the requirement that the purpose of the travel must have been to thwart law enforcement attempts to track the items stolen in the burglary.

This bill is effective October 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

¹⁹ Section 322.34(2)(a), F.S.

²⁰ Section 322.34(2)(b), F.S.

²¹ Section 322.34(2)(c), F.S. The enumerated specified offenses include driving under the influence; refusal to submit to a urine, breath-alcohol, or blood alcohol test; a traffic offense causing death or serious bodily injury; or fleeing and eluding.

²² Sections 812.014(3)(b), and (c), F.S.

²³ Section 812.014(2)(e), F.S.

²⁴ Section 812.04(3)(c), F.S.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference (CJIC) has not reviewed this legislation. However, SB 360 may have a positive indeterminate prison bed impact due to the increased number of offenders who may be sentenced to prison under this enhancement. Removing the requirement to prove that purpose of the travel must have been to thwart law enforcement attempts to track the items stolen may increase the number of offenders who qualify for this enhancement.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 843.22 of the Florida Statutes.

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

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

None.

B. Amendments:

None.

By Senator Harrell

25-00578-22

2022360__

A bill to be entitled

An act relating to traveling across county lines to commit a burglary; amending s. 843.22, F.S.; deleting a requirement that travel across county lines be for a specified purpose in order to reclassify a burglary offense; providing an effective date.

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

Section 1. Subsection (2) of section 843.22, Florida Statutes, is amended to read:

843.22 Traveling across county lines with intent to commit a burglary.—

(2) If a person who commits a burglary travels any distance with the intent to commit the burglary in a county in this state other than the person's county of residence, the degree of the burglary shall be reclassified to the next higher degree ~~if the purpose of the person's travel is to thwart law enforcement attempts to track the items stolen in the burglary.~~ For purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, a burglary that is reclassified under this section is ranked one level above the ranking specified in s. 921.0022 or s. 921.0023 for the burglary committed.

Section 2. This act shall take effect October 1, 2022.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Transportation, *Chair*
Military and Veterans Affairs, Space,
and Domestic Security, *Vice Chair*
Appropriations Subcommittee on Health and
Human Services
Children, Families, and Elder Affairs
Finance and Tax

SELECT COMMITTEE:

Select Committee on Pandemic
Preparedness and Response

SENATOR GAYLE HARRELL

25th District

January 10, 2022

Senator Kathleen Passidomo
400 Senate Building
404 South Monroe Street
Tallahassee, FL 32399

Chair Passidomo,

I respectfully request that **SB 360 – Traveling Across County Lines with Intent to Commit a Felony** be placed on the next available agenda for the Rules Committee Meeting.

Should you have any questions or concerns, please feel free to contact my office. Thank you in advance for your consideration.

Thank you,

A handwritten signature in cursive script that reads "Gayle".

Senator Gayle Harrell
Senate District 25

Cc: John Phelps, Staff Director
Cynthia Futch, Committee Administrative Assistant

REPLY TO:

- 215 SW Federal Highway, Suite 203, Stuart, Florida 34994 (772) 221-4019 FAX: (888) 263-7895
- 310 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5025

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

SB 360 – Senator Harrell
Explanation for Need of this Legislation

In recent years, criminals have wised up and figured out that it is more profitable to travel an hour or two away from their residence, commit the crime, and use the internet or other illicit markets to sell the stolen property without detection.

In 2014, the Legislature passed a travelling burglar statute to try and address this very issue. What we have found is that there was a glitch in the bill that created a double threshold and a standard that was impassible for prosecutors to prove. That is why zero convictions have occurred to this day.

In order to achieve a conviction a prosecutor must currently prove that the “the purpose of the travel was to commit a burglary” and that part is a problem. What we are repealing is the next line which says “the purpose of the travel was to thwart law enforcements ability to track the stolen property.” The problem there is that all property that is stolen is done so with the intent to thwart law enforcements ability to track the stolen property. Therefore, it is impossible to prove that the travel was done specifically to do something that is already being done with stolen property – trying to get away from the cops.

This simple change will allow law enforcement and prosecutors the ability to appropriately charge and penalize individuals who roam about the state seeking to prey on vulnerable communities.

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 Rules

BILL: SB 418

INTRODUCER: Senator Pizzo and others

SUBJECT: Assistive Technology Advisory Council

DATE: January 25, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Palazes</u>	<u>Bouck</u>	<u>ED</u>	Favorable
2.	<u>McMillan</u>	<u>McKay</u>	<u>CM</u>	Favorable
3.	<u>Palazes</u>	<u>Phelps</u>	<u>RC</u>	Favorable

I. Summary:

SB 418 modifies the composition of the Florida Assistive Technology Advisory Council (Council), which is responsible for the comprehensive statewide program of technology related assistance for individuals with disabilities. The bill also:

- Removes the maximum limit on Council membership and modifies requirements specifying representation on the Council;
- Requires the appointment of a single chair of the Council;
- Modifies requirements for reappointments to the Council;
- Removes the designation of specific committees; and
- Expands the Council's functions to include fundraising activities.

The bill takes effect on July 1, 2022.

II. Present Situation:

Assistive technology helps people with disabilities live, work, learn, and play as independently as possible. It is any device, item, gadget, tool, hardware, or software used to increase, maintain, or improve the functional capabilities of both individuals of all ages who have disabilities and older adults who may find a need for assistance. Assistive technology provides people who have disabilities the option to access education and the workplace, to live within their communities, and enjoy recreational activities.¹

¹ Florida Alliance for Assistive Services & Technology, *What is Assistive Technology (A.T.)?* <https://faast.org/> (last visited Jan. 7, 2022).

Federal Law

In 2004, the Assistive Technology Act of 1998 was amended by the Assistive Technology Act of 2004 (Act), to recognize the substantial progress that had been made in the development of assistive technology devices that benefit individuals with disabilities.² The Act requires the Secretary of Education to support state grant programs that assist states in undertaking activities for maximizing the ability of individuals with disabilities across the human lifespan and across the wide array of disabilities.³ In addition, the Act requires states to establish advisory councils for the purpose of consumer-response and consumer-driven advice to the state for planning, implementation, and evaluation of activities carried out through the grants made available by the Act.⁴

The state implemented advisory council must be comprised of the following members:⁵

- Individuals with disabilities that use assistive technology or the family members or guardians of the individuals;
- A representative of the designated State agency;
- A representative of a state center for independent living;
- A representative of the state workforce development board established under section 101 of the Workforce Innovation and Opportunity Act;
- A representative of the State educational agency; and
- Representatives of other state agencies, public agencies, or private organizations, as determined by the state.

Further, states are required to ensure a majority of the members of the advisory council are members appointed as individuals with disabilities, or family members or guardians of individuals with disabilities that use assistive technology.⁶ The council must also be geographically representative of the state and reflect the diversity of the state with respect to race, ethnicity, types of disabilities across the age span, and users of types of services that an individual with a disability may receive.⁷

Florida Law

The Assistive Technology Advisory Council (Council) is responsible for ensuring consumer involvement in the creation, application, and distribution of technology-related assistance to and for persons who have disabilities.⁸ The Council acts as the board of directors and provides direction, through a not-for-profit corporation created by the Division of Vocational

² 29 U.S.C. s. 3001, et. seq.

³ 29 U.S.C. s. 3003(a).

⁴ 29 U.S.C. s. 3003(c)(2)(A).

⁵ 29 U.S.C. s. 3003(c)(2)(B)(i).

⁶ 29 U.S.C. s. 3003(c)(2)(B)(ii)(I).

⁷ 29 U.S.C. s. 3003(c)(2)(B)(iii).

⁸ Section 413.407, F.S.

Rehabilitation (DVR) of the Department of Education, to Florida's Alliance for Assistive Services and Technology.⁹

The Council may not exceed 27 members at any one time. The Council must be composed of the following members:¹⁰

- Individuals who have disabilities¹¹ and who are assistive technology consumers or family members or guardians of those individuals;¹²
- Representatives of consumer organizations concerned with assistive technology;
- Representatives of business and industry, including the insurance industry, concerned with assistive technology;
- A representative of the Division of Vocational Rehabilitation;
- A representative of the Division of Blind Services;
- A representative of the Florida Independent Living Council;
- A representative of CareerSource Florida, Inc.;
- A representative of the Department of Education; and
- Representatives of other state agencies that provide or coordinate services for persons with disabilities.

The Council is appointed by the Commissioner of Education from a list of candidates proposed by the director of the DVR.¹³ The Council is required to appoint two co-chairs among the membership of the Council.¹⁴ Members of the Council serve for a term of 3 years and cannot serve more than two consecutive terms, and a member that has served two consecutive terms must be retired from the council for at least 1 year prior to reappointment.¹⁵

Members of the Council are required to appoint committees made up of members of the council to focus on specific issues within the council's mandates.¹⁶ The Council's committees must include, but are not limited to:¹⁷

- An interagency committee composed of those members representing state agencies;¹⁸

⁹ Section 413.407(2)(a) F.S. Florida's Alliance for Assistive Services and Technology is a project sponsored by the Department of Education for the coordination and delivery of appropriate, cost-effective, state-of-the-art assistive technology services and devices. *See Id.*

¹⁰ Section 413.407(1)(a), F.S.

¹¹ A "disability" means a physical or mental impairment that constitutes or results in a substantial impediment to employment. *See s. 413.20(7), F.S.*

¹² These individuals must make up a majority of the membership.

¹³ Section 413.407(1)(b), F.S.

¹⁴ Section 413.407(1)(d), F.S.

¹⁵ Section 413.407(1)(e), F.S.

¹⁶ Committees may request and accept in-kind contributions of personnel from public or private entities to supply such staffing as the committees deem necessary to carry out their individual mandates. *See s. 413.407(2)(b), F.S.*

¹⁷ Section 413.407(2)(b), F.S.

¹⁸ The interagency committee must work towards the development of cooperative agreements among government agencies and perform other duties as the council deems appropriate. The interagency committee's members must assign staff from their respective agencies to the alliance, as an in-kind contribution for a specified period of time, to review federal and state legislation and agency policies and practices and to identify both facilitators of, and barriers to, accessibility and utilization of assistive technology services, devices, and funding sources. *See s. 413.407(2)(b)1., F.S.*

- A technology-awareness committee to guide the Council's public awareness, coordination, and collaboration activities; and
- A public policy and advocacy committee to review federal and state legislation and agency policies and practices and to identify facilitators of and barriers to access and utilization of assistive technology services, devices, and funding sources.

III. Effect of Proposed Changes:

The bill modifies s. 413.407, F.S., to revise the composition of the Florida Assistive Technology Council (Council) to allow only one representative of a consumer organization and one representative of business and industry. The bill authorizes a representative from a center for independent living, rather than from the Florida Independent Living Council. The bill also provides that a representative from another state agency that provides or coordinates services for persons with disabilities can be added to the Council if requested by a majority vote of the Council members, and that representative must be appointed by the head of the corresponding state agency. Additionally, the bill removes the requirement that Council membership may not exceed 27 members.

The bill aligns the Council membership with federal requirements that members of the Council be geographically representative of the state, reflective of the diversity of the state's population with respect to race, ethnicity, age, gender, type of disability, and type of disability-related services and devices received. The bill directs the Council to elect a single chair of the council. The bill maintains the limit of two consecutive terms for members, but revises the number of years a council member must be retired from the Council after two consecutive terms to be reappointed, from 1 year to 3 years.

The bill deletes the requirement that Council members form a technology awareness committee and a public policy and advocacy committee. The bill removes the interagency committee, and assigns the duties of that committee to the members representing state agencies. The bill also allows Council members to participate in fundraising activities on behalf of the Council, which could lead to additional funding for the Council.

The bill takes effect on July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill allows the Council to do fundraising activities. Section 20.03, F.S., provides that a “council” or “advisory council” means an advisory body created by specific statutory enactment and appointed to function on a continuing basis for the study of the problems arising in a specified functional or program area of state government and to provide recommendations and policy alternatives.

VIII. Statutes Affected:

This bill substantially amends section 413.407 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

By Senator Pizzo

38-00542-22

2022418__

1 A bill to be entitled
 2 An act relating to the Assistive Technology Advisory
 3 Council; amending s. 413.407, F.S.; revising
 4 provisions relating to the membership of and
 5 appointments and reappointments to the Assistive
 6 Technology Advisory Council; requiring council members
 7 to select a chair from among the council membership;
 8 revising provisions relating to committees appointed
 9 to perform the council's functions; expanding the
 10 council's functions to include fundraising activities;
 11 providing an effective date.

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

15 Section 1. Section 413.407, Florida Statutes, is amended to
 16 read:

17 413.407 Assistive Technology Advisory Council.—There is
 18 created the Assistive Technology Advisory Council, responsible
 19 for ensuring consumer involvement in the creation, application,
 20 and distribution of technology-related assistance to and for
 21 persons who have disabilities. The council shall fulfill its
 22 responsibilities through statewide policy development, ~~both~~
 23 state and federal legislative initiatives, advocacy at ~~both~~ the
 24 state and federal levels level, planning of statewide resource
 25 allocations, policy-level management, and reviews of ~~both~~
 26 consumer responsiveness and the adequacy of program service
 27 delivery, and by performing the functions listed in this
 28 section.

29 (1) (a) The council shall be composed of:

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

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2022418__

30 1. Persons ~~Individuals~~ who have disabilities and who are
 31 assistive technology consumers or family members or guardians of
 32 those ~~persons individuals~~.

33 2. A representative ~~Representatives of a~~ consumer
 34 organization ~~organizations~~ concerned with assistive technology.

35 3. A representative ~~Representatives of~~ business and
 36 industry, including the insurance industry, concerned with
 37 assistive technology.

38 4. A representative of the Division of Vocational
 39 Rehabilitation.

40 5. A representative of the Division of Blind Services.

41 6. A representative of a center for independent living the
 42 Florida Independent Living Council.

43 7. A representative of CareerSource Florida, Inc.

44 8. A representative of the Department of Education.

45 9. A representative ~~Representatives of~~ any other state
 46 agency agencies that provides or coordinates provide or
 47 coordinate services for persons with disabilities, if requested
 48 by a majority vote of the council members.

49
 50 ~~Total membership on the council may not exceed 27 at any one~~
 51 ~~time. A majority of the members shall be appointed in accordance~~
 52 ~~with subparagraph 1.~~

53 (b) Members of the council shall be appointed by the
 54 Commissioner of Education from a list of candidates proposed by
 55 the division director. However, a member who is a representative
 56 of a state agency shall be appointed by the head of that state
 57 agency.

58 (c) A majority of council members must ~~shall~~ be persons who

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59 have disabilities as defined in s. 413.20 and ~~s. 413.20(7)~~ who
60 are ~~also~~ consumers of assistive technology or family members or
61 guardians of such persons.

62 (d) Members of the council must be geographically
63 representative of the state and reflect the diversity of the
64 state's population with respect to race, ethnicity, gender, age,
65 type of disability, and type of disability-related services and
66 devices received.

67 ~~(e)(d)~~ The members of the council shall select a chair ~~two~~
68 ~~co-chairs~~ from among the membership of the council.

69 ~~1. One co-chair may be selected from the group described in~~
70 ~~paragraph (c) and one co-chair shall be selected from the other~~
71 ~~council members.~~

72 ~~2. The chair~~ ~~No co-chair~~ may not be an elected member or an
73 employee of a state agency or of any political subdivision of
74 the state.

75 ~~(f)1.(e)1.~~ Each member of the council shall serve for a
76 term of not more than 3 years, except that a member appointed to
77 fill a vacancy occurring before ~~prior to~~ the expiration of the
78 term for which a predecessor was appointed shall be appointed
79 for the remainder of such term.

80 ~~2. A~~ ~~No~~ member of the council may not serve more than two
81 consecutive terms; however, any appointment under subparagraph
82 1., if for less than 18 months, is ~~shall~~ ~~not~~ be considered a
83 term for the purposes of this section.

84 ~~3. A~~ member who has served two consecutive terms and has
85 been retired from the council for at least 3 years ~~1 year~~ may be
86 reappointed to the council on the same basis as a new member.

87 ~~(g)(f)~~ Any vacancy occurring in the membership of the

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88 council shall be filled in the same manner as the original
89 appointment. A vacancy does not affect the power of the
90 remaining members to execute the duties of the council.

91 (2) In addition to the other functions specified in this
92 section, the council shall:

93 (a) Act as the board of directors of a not-for-profit
94 corporation created by the division. Through the corporation,
95 the council shall provide direction to ~~the Florida~~ Florida's
96 Alliance for Assistive Services and Technology, a project
97 sponsored by the department for the coordination and delivery of
98 appropriate, cost-effective, state-of-the-art assistive
99 technology services and devices.

100 (b) Appoint committees made up of members of the council to
101 focus on specific issues within the council's mandate.
102 Committees may request and accept in-kind contributions of
103 personnel from public or private entities to supply such
104 staffing as the committees deem necessary to carry out their
105 individual mandates. ~~These committees shall include, but are not~~
106 ~~limited to:~~

107 1. Members who are representatives of state agencies
108 serving on the committees ~~An interagency committee composed of~~
109 ~~those members representing state agencies. The interagency~~
110 ~~committee shall work towards the development of cooperative~~
111 ~~agreements among government agencies and perform such other~~
112 ~~duties as the council deems appropriate.~~

113 2. Members who are representatives of state agencies
114 serving on the committees ~~The interagency committee's members~~
115 ~~shall assign staff from their respective agencies to the~~
116 ~~alliance, as an in-kind contribution for a specified period of~~

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117 time, to review federal and state legislation and agency
 118 policies and practices and to identify both facilitators of, and
 119 barriers to, accessibility and utilization of assistive
 120 technology services, devices, and funding sources.

121 ~~2. A technology awareness committee to guide the council's~~
 122 ~~public awareness, coordination, and collaboration activities.~~

123 ~~3. A public policy and advocacy committee to review federal~~
 124 ~~and state legislation and agency policies and practices and to~~
 125 ~~identify facilitators of and barriers to access and utilization~~
 126 ~~of assistive technology services, devices, and funding sources.~~

127 (c) Review and approve all reports, recommendations, and
 128 proposed actions of committee staff.

129 (d) Appoint the executive director of the alliance who is-
 130 The executive director shall be responsible for the overall
 131 administration and day-to-day direction of the alliance,
 132 including the as well as supervision of all staff.

133 (e) Annually review and approve the strategic or business
 134 plan of the alliance, as submitted by the executive director.

135 (f) Submit an annual comprehensive report of the activities
 136 of the council, the corporation, and the alliance to the
 137 division director.

138 (g) Perform ~~such~~ other functions, including fundraising
 139 activities, as the council determines to be appropriate which
 140 are comparable to functions performed by the council.

141 (h) Convene at least four meetings each year in locations
 142 that such places as it determines to be necessary to conduct
 143 council business and may conduct such forums or hearings as it
 144 ~~the council~~ considers appropriate. The council shall make a
 145 report of each meeting which must contain ~~shall include~~ a record

Page 5 of 6

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

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146 of its discussions and recommendations and must, ~~all of which~~
 147 ~~reports shall~~ be made available to the public.

148 (3) In accordance with Pub. L. No. 108-364, the council
 149 shall:

150 (a) Investigate financing options that will increase access
 151 to and funding for assistive technology devices and assistive
 152 technology services.

153 (b) Develop assistive technology demonstrations,
 154 reutilization programs, and loan programs.

155 (c) Provide training and technical assistance in order to
 156 increase knowledge and awareness of the uses and benefits of
 157 assistive technology devices and assistive technology services.

158 (d) Promote public awareness activities designed to provide
 159 information relating to the benefits of assistive technology
 160 devices and assistive technology services.

161 (e) Promote coordination and collaboration among public and
 162 private entities that are responsible for policies, procedures,
 163 or funding for the provision of assistive technology devices and
 164 assistive technology services.

165 Section 2. This act shall take effect July 1, 2022.

Page 6 of 6

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The Florida Senate

Committee Agenda Request

To: Senator Kathleen Passidomo, Chair
Committee on Rules


Subject: Committee Agenda Request

Date: January 11, 2022

I respectfully request that **SB 418**, relating to Assistive Technology Advisory Council, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

Assistive technology helps people with disabilities live, work, learn, and play as independently as possible. It provides people who have disabilities the option to access education and the workplace, to live within their communities, and enjoy recreational activities. SB 418 modifies the composition of the Florida Assistive Technology Advisory Council, which is responsible for the comprehensive statewide program of technology related assistance for individuals with disabilities. The bill also removes the maximum limit on Council membership and modifies requirements specifying representation on the Council; requires the appointment of a single chair of the Council; modifies requirements for reappointments to the Council; removes the designation of specific committees; and expands the Council's functions to include fundraising activities.



Senator Jason W. B. Pizzo
Florida Senate, District 38

The Florida Senate

APPEARANCE RECORD

SB418

January 27, 2022

Meeting Date

Bill Number or Topic

Rules

Deliver both copies of this form to
Senate professional staff conducting the meeting

Committee

Amendment Barcode (if applicable)

Name Megan Germain

Phone (850) 487-3278

Address 820 E Park Avenue, Suite D200

Email matkinson@faast.org

Street

Tallahassee

FL

32301

City

State

Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

FAAST, Inc.

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1.

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

S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL: SB 474

INTRODUCER: Senator Perry

SUBJECT: Recreational Off-highway Vehicles

DATE: January 25, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Becker</u>	<u>Becker</u>	<u>AG</u>	Favorable
2.	<u>Proctor</u>	<u>Vickers</u>	<u>TR</u>	Favorable
3.	<u>Becker</u>	<u>Phelps</u>	<u>RC</u>	Favorable

I. Summary:

SB 474 increases the dry weight allowed for recreational off-highway vehicles (ROVs) from 2,500 pounds to 3,500 pounds.

The bill has an effective date of July 1, 2022.

II. Present Situation:

The 2002 Legislature found that off-highway vehicles were becoming increasingly popular in this state and that the use of these vehicles should be controlled and managed to minimize negative effects on the environment, wildlife habitats, native wildlife, and native flora and fauna.¹ The T. Mark Schmidt Off-Highway Vehicle Safety and Recreation Act² was passed to develop an Off-Highway Vehicle recreational system. The program provides a set of guidelines to follow for developing and maintaining state lands, as well as provides restrictions on vehicles allowed on authorized state lands.

The Department of Highway Safety and Motor Vehicles (DHSMV) and its agents (Tax Collector Offices) are responsible for the issuing, handling, and recording of all off-highway vehicle titling applications and certificates, including the receipt and accounting of related fees.³ The funds for these title transactions, less administrative costs of \$2 per transaction (which are deposited into the Highway Safety Operating Trust Fund) are deposited into the Incidental Trust Fund of the Florida Forest Service of the Department of Agriculture and Consumer Services (DACs).⁴

¹ Section 261.02(1), F.S.

² Section 261.01, F.S.

³ Section 317.0004(1), F.S.

⁴ Department of Highway Safety and Motor Vehicles, *2022 Legislative Bill Analysis for SB 474*, (November 30, 2021), p. 2 (on file in the Senate Committee on Transportation).

The definition of ROVs is distinguished by width, weight, and the number of non-highway wheels. Current law provides that an ROV must:

- Be 80 inches or less in width;
- Have a dry weight of 2,500 pounds or less;
- Be designed to travel on four or more nonhighway tires; and
- Be manufactured for recreational use by one or more persons.⁵

Any person operating an off-highway vehicle who has not attained 16 years of age must be supervised by an adult while operating the off-highway vehicle. In addition, a person who has not attained 16 years of age must have in their possession a certificate evidencing the satisfactory completion of an approved off-highway vehicle safety course in this state or another jurisdiction. A nonresident who has not attained 16 years of age and who is in this state temporarily for a period not to exceed 30 days is exempt from this requirement.⁶

An ROV that is operated between sunset and sunrise, or when visibility is reduced because of rain, smoke, or smog, must display a lighted headlamp and tail lamp unless the use of such lights is prohibited by other laws, such as a prohibition on the use of lights when hunting at night. An ROV that is used in certain organized and sanctioned competitive events being held on a closed course may be exempted by DACS rule from any equipment requirement.⁷

Any person who commits one of the following violations commits a noncriminal infraction and is subject to a fine of not less than \$100 and may have their privilege to operate an ROV on public lands revoked:⁸

- Carrying more passengers on an off-highway vehicle than the machine is specifically designed by the manufacturer to carry;
- Operating an ROV while under the influence of alcohol, a controlled substance, or any prescription or over-the-counter drug that impairs vision or motor condition;
- A person, who has not attained 16 years of age, operating an ROV without wearing eye protection, over-the-ankle boots, and a safety helmet that is approved by the United States Department of Transportation or Snell Memorial Foundation; and
- Operating an ROV in a careless or reckless manner that endangers or causes injury or damage to another person or property.⁹

Some ROV manufacturers are adding hydrogen and electric models to their lineup. The weight of these new models has the potential to be greater than the traditional combustion engine models. For instance, Polaris produces the electric powered Ranger EV (dry weight of 1,762 pounds)¹⁰ and Ranger XP Kinetic (dry weight of 1,980 pounds)¹¹ models; Nikola produces the

⁵ Sections 261.03(8) and 317.0003(9), F.S.

⁶ Sections 261.20(2) and (3), F.S.

⁷ *Ibid.*

⁸ Section 261.20(6), F.S.

⁹ Section 261.20(5), F.S.

¹⁰ Polaris, *Ranger EV*, <https://ranger.polaris.com/en-us/ranger-ev/> (last visited January 5, 2022).

¹¹ Polaris, *Ranger XP Kinetic*, <https://ranger.polaris.com/en-us/ranger-xp-kinetic-ultimate-polaris-pursuit-camo/specs/> (last visited January 5, 2022).

NTZ model (dry weight of 2,300 to 4,400 pounds depending on motor and battery capacity);¹² and Lexus has revealed a new ROV hydrogen concept model.¹³ However, SB 474 does not address any specifications that an increased weight allowance would be associated with, it only increases the dry weight allowance for ROVs which would apply regardless of engine type or ROV capabilities.

III. Effect of Proposed Changes:

SB 474 increases the dry weight allowed for ROVs from 2,500 pounds to 3,500 pounds. The bill does not change any of the current equipment and operational requirements relating to ROVs.

The bill has an effective date of July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Additional ROVs may be eligible to be titled in Florida.

¹² Nikola Motor, *NZT*, <https://nikolamotor.com/nzt> (last visited January 5, 2022); Lucas Cooney, *590-Horsepower Electric Nikola NZT Specs*, ATV.com, <https://www.atv.com/manufacturer/nikola/590-horsepower-electric-nikola-nzt-specs> (last visited January 5, 2022).

¹³ *Lexus Unveils Hydrogen-Engined ROV Concept*, Green Car Congress, <https://www.greencarcongress.com/2021/12/20211204-lexusrov.html> (last visited January 5, 2022).

C. Government Sector Impact:

If additional ROVs are titled in Florida, the DHSMV, tax collectors, and the Incidental Trust Fund of the Florida Forest Service of the DACS may see an indeterminate increase in revenue.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends sections 261.03 and 317.0003 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

By Senator Perry

8-00396-22

2022474__

1 A bill to be entitled
 2 An act relating to recreational off-highway vehicles;
 3 amending ss. 261.03 and 317.0003, F.S.; revising the
 4 definition of the term "ROV" to increase the weight
 5 limit of a specified vehicle; providing an effective
 6 date.

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

10 Section 1. Subsection (8) of section 261.03, Florida
 11 Statutes, is amended to read:

12 261.03 Definitions.—As used in this chapter, the term:

13 (8) "ROV" means any motorized recreational off-highway
 14 vehicle 80 inches or less in width which has a dry weight of
 15 3,500 ~~2,500~~ pounds or less, is designed to travel on four or
 16 more nonhighway tires, and is manufactured for recreational use
 17 by one or more persons. The term does not include a golf cart as
 18 defined in ss. 316.003 and 320.01 or a low-speed vehicle as
 19 defined in s. 320.01.

20 Section 2. Subsection (9) of section 317.0003, Florida
 21 Statutes, is amended to read:

22 317.0003 Definitions.—As used in this chapter, the term:

23 (9) "ROV" means any motorized recreational off-highway
 24 vehicle 80 inches or less in width which has a dry weight of
 25 3,500 ~~2,500~~ pounds or less, is designed to travel on four or
 26 more nonhighway tires, and is manufactured for recreational use
 27 by one or more persons. The term does not include a golf cart as
 28 defined in ss. 316.003 and 320.01 or a low-speed vehicle as
 29 defined in s. 320.01.

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8-00396-22

2022474__

30 Section 3. This act shall take effect July 1, 2022.

Page 2 of 2

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The Florida Senate

Committee Agenda Request

To: Senator Kathleen Passidomo, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: January 18, 2022

I respectfully request that **Senate Bill #474**, relating to Recreational Off-highway Vehicles, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

Statement of Intent:

Senate Bill 474 updates the off-highway recreational vehicle statutes, ss. 261.03 and 317.003, F.S. revising the dry weight limit from 2,500 lbs. to 3,500 lbs. The purpose of this legislation is to accommodate the introduction of electric off-road vehicles in the marketplace, which require a heavier lithium-ion battery. The additional weight will also allow for strengthened materials which will increase durability. At least 32 other states have increased the weight capacity for off-road vehicles to 3,500 lbs. or more. This legislation will have no impact on current public trail rules and regulations. The overall benefit of these electric off-road vehicles will include zero emissions, which will have positive environmental impacts.

A handwritten signature in black ink that reads "W. Keith Perry".

Senator Keith Perry
Florida Senate, District 8

The Florida Senate

APPEARANCE RECORD

1-27-22

Meeting Date

474

Bill Number or Topic

RULES

Committee

Deliver both copies of this form to Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name STEVE DYAL

Phone 850-510-6286

Address 940 HANTS NORT LN
Street

Email SDyale@flsenate.gov

TAM
City

FL
State

32309
Zip

Speaking: For Against Information OR Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

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I am a registered lobbyist, representing:
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I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/SB 520

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Brandes

SUBJECT: Public Records and Public Meetings

DATE: January 25, 2022 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brick</u>	<u>Bouck</u>	<u>ED</u>	Favorable
2.	<u>Ponder</u>	<u>McVaney</u>	<u>GO</u>	Fav/CS
3.	<u>Brick</u>	<u>Phelps</u>	<u>RC</u>	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 520 makes confidential and exempt from public disclosure requirements any personal identifying information of an applicant for the position of president of a state university or Florida College System (FCS) institution held by a state university or an FCS institution.

The bill provides that the personal identifying information of an applicant included in a final group of applicants for president is no longer confidential and exempt from public records requirements beginning at the earlier of the date the final group of applicants to be considered for president is established or at least 21 days before either an interview of an applicant or final action on the offer of employment.

The bill also exempts from open meeting requirements any portion of a meeting held for the purpose of identifying or vetting applicants for president of a state university or FCS institution, including any portion of a meeting that would disclose personal identifying information of such applicants. However, the meeting exemption does not apply to any portion of a meeting held for the purpose of establishing qualifications for the position or establishing any compensation framework to be offered to an applicant. Additionally, any meeting held after a final group of applicants has been established must be open to the public.

The bill requires a complete recording to be made of any portion of a closed meeting, and prohibits any closed portion of a meeting from being held off the record. The recording of the closed portion of a meeting is also exempt from the public disclosure requirements.

Because this bill creates new public records exemptions and an open meeting exemption, it will require a two-thirds vote of both the Senate and the House of Representatives in order to become a law.

The bill provides that the exemptions are subject to the Open Government Sunshine Review Act and are repealed on October 2, 2027, unless saved from repeal by the Legislature.

The bill has no significant fiscal impact on state universities and FCS institutions.

The bill takes effect upon becoming a law.

II. Present Situation:

Access to Public Records - Generally

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 The right to inspect or copy 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

Additional requirements and exemptions related to public records are found in various statutes and rules, depending on the branch of government involved. For instance, section 11.0431, F.S., provides public access requirements for legislative records. Relevant exemptions are codified in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature.³ Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.⁴ Lastly, chapter 119, F.S., known as the Public Records Act, provides requirements for public records held by executive agencies.

Executive Agency Records – The Public Records Act

The Public Records Act provides that all state, county and municipal records are open for personal inspection and copying by any person, and that providing access to public records is a duty of each agency.⁵

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

¹ Art. I, s. 24(a), Fla. Const.

² *Id.*

³ See Rule 1.48, *Rules and Manual of the Florida Senate*, (2018-2020) and Rule 14.1, *Rules of the Florida House of Representatives*, Edition 2, (2018-2020)

⁴ *State v. Wooten*, 260 So. 3d 1060 (Fla. 4th DCA 2018).

⁵ Section 119.01(1), F.S. Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

All documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connections 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 that are used to “perpetuate, communicate, or formalize knowledge of some type.”⁶

The Florida Statutes specify conditions under which public access to public records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any 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

The Legislature may exempt public records from public access requirements by passing a general law by a two-thirds vote of both the House and the Senate.⁹ The exemption must state with specificity the public necessity justifying the exemption and must be no broader than necessary to accomplish the stated purpose of the exemption.¹⁰

General exemptions from the public records requirements are contained in the Public Records Act.¹¹ Specific exemptions often are placed in the substantive statutes relating to a particular agency or program.¹²

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 which 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

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.

⁹ FLA. CONST. art. I, s. 24(c).

¹⁰ *Id. See, e.g., Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999) (holding that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption); *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004) (holding that a statutory provision written to bring another party within an existing public records exemption is unconstitutional without a public necessity statement).

¹¹ *See, e.g., s. 119.071(1)(a), F.S.* (exempting from public disclosure examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure).

¹² *See, e.g., s. 213.053(2)(a), F.S.* (exempting from public disclosure information contained in tax returns received by the Department of Revenue).

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).

Open Meetings Laws

The State Constitution provides that the public has a right to access governmental meetings.¹⁶ Each collegial body must provide notice of its meetings to the public and permit the public to attend any meeting at which official acts are taken or at which public business is transacted or discussed.¹⁷ This applies to the meetings of any collegial body of the executive branch of state government, counties, municipalities, school districts, or special districts.¹⁸

Public policy regarding access to government meetings also is addressed in the Florida Statutes. Section 286.011, F.S., known as the “Government in the Sunshine Law,”¹⁹ or the “Sunshine Law,”²⁰ requires all meetings of any board or commission of any state or local agency or authority at which official acts are to be taken be open to the public.²¹ The board or commission must provide the public reasonable notice of such meetings.²² Public meetings may not be held at any location that discriminates on the basis of sex, age, race, creed, color, origin, or economic status or which operates in a manner that unreasonably restricts the public’s access to the facility.²³ Minutes of a public meeting must be promptly recorded and open to public inspection.²⁴ Failure to abide by open meetings requirements will invalidate any resolution, rule, or formal action adopted at a meeting.²⁵ A public officer or member of a governmental entity who violates the Sunshine Law is subject to civil and criminal penalties.²⁶

The Legislature may create an exemption to open meetings requirements by passing a general law by at least a two-thirds vote of each house of the Legislature.²⁷ The exemption must explicitly lay out the public necessity justifying the exemption and must be no broader than necessary to accomplish the stated purpose of the exemption.²⁸ A statutory exemption which does not meet these two criteria may be unconstitutional and may not be judicially saved.²⁹

¹⁶ Art. I, s. 24(b), Fla. Const.

¹⁷ Art. I, s. 24(b), Fla. Const.

¹⁸ *Id.* Meetings of the Legislature are governed by Article III, section 4(e) of the Florida Constitution, which states: “The rules of procedure of each house shall further provide that all prearranged gatherings, between more than two members of the legislature, or between the governor, the president of the senate, or the speaker of the house of representatives, the purpose of which is to agree upon formal legislative action that will be taken at a subsequent time, or at which formal legislative action is taken, regarding pending legislation or amendments, shall be reasonably open to the public.”

¹⁹ *Times Pub. Co. v. Williams*, 222 So. 2d 470, 472 (Fla. 2d DCA 1969).

²⁰ *Board of Public Instruction of Broward County v. Doran*, 224 So. 2d 693, 695 (Fla. 1969).

²¹ Section 286.011(1)-(2), F.S.

²² *Id.*

²³ Section 286.011(6), F.S.

²⁴ Section 286.011(2), F.S.

²⁵ Section 286.011(1), F.S.

²⁶ Section 286.011(3), F.S.

²⁷ Art. I, s. 24(c), Fla. Const.

²⁸ *Id.*

²⁹ *Halifax Hosp. Medical Center v. New-Journal Corp.*, 724 So. 2d 567 (Fla. 1999). In *Halifax Hospital*, the Florida Supreme Court found that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption. *Id.* at 570. The Florida Supreme Court also declined to narrow the exemption in order to save it. *Id.* In *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004), the court found that the intent of a public records statute was to create a public records exemption. The *Baker County Press* court found that since the law did not contain a public necessity statement, it was unconstitutional. *Id.* at 196.

Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act³⁰ (the Act), prescribe a legislative review process for newly created or substantially amended³¹ public records or open meetings exemptions, with specified exceptions.³² The Act requires the repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.³³

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.³⁴ An exemption serves an identifiable purpose if it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- It allows the state or its political subdivisions to effectively and efficiently administer a governmental program, and administration would be significantly impaired without the exemption;³⁵
- It protects sensitive, personal information, the release of which would be defamatory, cause unwarranted damage to the good name or reputation of the individual, or would jeopardize the individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;³⁶ or
- It protects information of a confidential nature concerning entities, such as trade or business secrets.³⁷

The Act also requires specified questions to be considered during the review process.³⁸ In examining an exemption, the Act directs the Legislature to question the purpose and necessity of reenacting the exemption.

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are required.³⁹ If the exemption is continued without substantive changes or if

³⁰ Section 119.15, F.S.

³¹ An exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings as well as records. Section 119.15(4)(b), F.S.

³² 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.

³³ Section 119.15(3), F.S.

³⁴ Section 119.15(6)(b), F.S.

³⁵ Section 119.15(6)(b)1., F.S.

³⁶ Section 119.15(6)(b)2., F.S.

³⁷ Section 119.15(6)(b)3., F.S.

³⁸ 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?

³⁹ See generally s. 119.15, F.S.

the exemption is continued and 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.⁴⁰

State University System and Florida College System Governance

The State University System is composed of all public state universities.⁴¹ The Board of Governors (BOG) is required to operate, regulate, control, and be fully responsible for the management of the whole university system.⁴² Each state university is governed by a local board of trustees, which is subject to public records and open meetings laws.⁴³ The BOG establishes the powers and duties of the boards of trustees and may delegate its constitutional or statutory powers and duties to the boards of trustees as its designee.⁴⁴ The BOG establishes the personnel system for all state university employees and confirms the selection and reappointment of presidents by state university boards of trustees.⁴⁵

The Florida College System (FCS) is composed of public community and state colleges.⁴⁶ FCS institutions are supervised by the State Board of Education (SBE),⁴⁷ which establishes standards and guidelines for the FCS institutions.⁴⁸ A local board of trustees governs each FCS institution.⁴⁹

State University System and Florida College System Presidential Searches

Each state university board of trustees selects its university president, subject to confirmation of the candidate by the BOG and in accordance with BOG regulations. To locate qualified applicants, a presidential search committee is appointed to make recommendations to the full university board of trustees.⁵⁰

BOG regulation specifies criteria to ensure that the search process is transparent, robust, and designed to attract highly qualified individuals.⁵¹ Criteria include requirements that a search firm or consultant a search committee retains must be familiar, or demonstrate its ability to become familiar, with Florida's Sunshine laws,⁵² and that the search committee maintain for purposes of transparency a webpage that includes search committee notices, agendas, and meetings; applicant lists; and means to provide input.⁵³

⁴⁰ Section 119.15(7), F.S.

⁴¹ Art. IX, s. 7(b), Fla. Const. The State University System is made up of 12 state universities, specified in s. 1000.21(6), F.S.

⁴² Art. IX, s. 7(d), Fla. Const. *See also* ss. 20.155(4)(a), 1001.70(3), 1001.705(2), and 1001.706(2)(a), F.S.

⁴³ Art. IX, s. 7(b)-(c), Fla. Const. *See also* s. 1001.71(1), F.S.

⁴⁴ Art. IX, s. 7(c), Fla. Const. *See also* s. 1001.706(2)(b), F.S.

⁴⁵ Sections 1001.705(2)(k) and 1001.706(6)(a), F.S.

⁴⁶ Art. IX, s. 8(b), Fla. Const. The Florida College System is made up of 28 community and state colleges specified in s. 1000.21(3), F.S. Such institutions constitute political subdivisions of the state operated by boards of trustees. *See* s. 1004.67 and ss. 1001.61-1001.64, F.S.

⁴⁷ Art. IX, s. 8(d), Fla. Const.

⁴⁸ Section 20.15(1), (2), and (5); *see also* s. 1001.02(1) and (6), F.S.

⁴⁹ Art. IX, s. 8(b), Fla. Const. *See also* ss. 1001.60(3) and 1001.64(2), F.S.

⁵⁰ Board of Governors (BOG) Regulation 1.001(5)(c).

⁵¹ BOG Regulation 1.002(1).

⁵² BOG Regulation 1.002(1)(b)ii.

⁵³ BOG Regulation 1.002(1)(c)i.

Each FCS institution board of trustees is authorized to appoint the president of the FCS institution.⁵⁴ The board of trustees is authorized to appoint a search committee to assist in the process.⁵⁵ Each board of trustees is required to notify the SBE of the appointment of a president immediately upon such action.⁵⁶

Information obtained by a search committee or consultant, including applications and other information gathered by a committee or consultant regarding applicants, must be made available for copying and inspection upon request. In addition, any meetings associated with the search process are open to the public.⁵⁷

The consultants assist by identifying and recruiting highly-talented individuals, as well as responding to all nominations, applications, and inquiries for the position. The consultants develop selection criteria and conduct preliminary screening interviews with each candidate who meets the stated criteria. The consultants provide the search committee with information gathered during the interviews along with background investigations concluded by the search firm. The search committee will identify semi-finalists and finalists for the position.

III. Effect of Proposed Changes:

Section 1 creates s. 1004.098, F.S., to establish exemptions from public records and open meeting requirements relating to applicants for president of a state university or a Florida College System (FCS) institution.

The bill specifies that any personal identifying information of an applicant for president of a state university or FCS institution held by a state university or a FCS institution is confidential and exempt from public records disclosure requirements.

The bill provides that the personal identifying information of an applicant included in a final group of applicants for president of a state university or FCS institution is no longer confidential and exempt from disclosure at the earlier date of the following:

- The date the final group of applicants to be considered for president is established; or
- At least 21 days before the date of a meeting at which an interview of an applicant will be conducted, or at which final action or a vote is to be taken on the offer of the employment of an applicant as president.

The bill exempts from open meetings requirements any portion of a meeting held for the purpose of identifying or vetting applicants for president of a state university or FCS institution, including any portion of a meeting that would disclose personal identifying information of such

⁵⁴ Section 1001.61, F.S.

⁵⁵ Section 1001.64(19), F.S.

⁵⁶ Rule 6A-14.026, F.A.C.

⁵⁷ FCS institutions and state universities are considered state agencies, subject to public records and public meetings laws. See *Wood v. Marston*, 442 So. 2d 934, 938 (Fla. 1983) (holding that a University of Florida screening committee was subject to Florida's Sunshine Law); *Rhea v. District Bd. Of Trustees of Santa Fe College*, 109 So. 3d. 851 at 855, n. 1 (Fla. 1st DCA 2013) (noting that Santa Fe College, as part of the Florida College System, is a state agency having a duty to provide access to public records).

applicants. The bill provides that a complete recording must be made of any portion of a meeting that is closed and any closed portion of such meeting may not be held off the record. The recording of the closed portion of a meeting is exempt from s. 119.07(1) and s. 24(a), Art. 1 of the State Constitution.

The bill specifies that the open meeting exemption does not apply to:

- Any portion of a meeting held for the purpose of establishing qualifications for the position or establishing any compensation framework to be offered to an applicant for president of a state university or FCS institution.
- Any meeting held after a final group of applicants for president of a state university or FCS institution has been established.

The exemptions from public records and open meetings established in the bill is subject to the Open Government Sunset Review Act and will be repealed on October 2, 2027, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2 sets forth the public necessity justifying the exemptions.⁵⁸ The bill asserts that applicants for president who are currently employed could jeopardize their current positions if it were known that they were seeking employment elsewhere. Further, the bill specifies that an exemption is necessary to allow a presidential search committee to access a pool of the most experienced and qualified applicants from which to fill the position of president.

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties or municipalities to take action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, or reduce the percentage of state tax shared with counties or municipalities.

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 or open meetings requirements. This bill enacts a new exemption for personal identifying information about applicants for the position of president at a state university or Florida College System (FCS) institution and a new exemption for certain portions of meetings that may discuss applicants for the position, thus, the bill requires a two-thirds vote to be enacted.

⁵⁸ Art. I, s. 24(c), Fla. Const.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records or open meetings requirements to state with specificity the public necessity justifying the exemption. Section two of the bill contains statements of public necessity for the exemptions.

Breadth of Exemption**Public Records Exemption**

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of the law is to protect personal identifying information of applicants for the position of president of a state university or FCS institution. This bill exempts from inspection and copying only personal identifying information of such individuals unless the applicant is selected for the list of finalists. The exemption does not appear to be broader than necessary to accomplish the purpose of the law.

Public Meetings Exemption

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. Like the public records exemption, the stated purpose of the law is to protect personal identifying information of applicants for the position of president of a state university or FCS institution prior to the selection of the final group. The bill appears to only exempt the portion of the meeting held for the purpose of identifying or vetting applicants, including any portion of a meeting which would disclose personal identifying information. The exemption does not appear to be broader than necessary to accomplish the purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

The private sector may continue to be subject to the costs associated with an agency making redactions in response to a public records request.

C. Government Sector Impact:

State universities and FCS institutions may incur costs related to the redaction of records in responding to public records requests.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 1004.098 of the Florida Statutes.

This bill creates an unnumbered section of law.

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

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

CS by Governmental Oversight and Accountability on January 19, 2022:

The CS makes the bill effective upon becoming a law rather than delaying it until July 1, 2022.

B. Amendments:

None.

By the Committee on Governmental Oversight and Accountability;
and Senator Brandes

585-02107-22

2022520c1

1 A bill to be entitled
2 An act relating to public records and public meetings;
3 creating s. 1004.098, F.S.; providing an exemption
4 from public records requirements for any personal
5 identifying information of an applicant for president
6 of a state university or a Florida College System
7 institution held by a state university or a Florida
8 College System institution; specifying when the
9 personal identifying information of applicants who are
10 in the final group of applicants is no longer
11 confidential and exempt; providing an exemption from
12 public meetings requirements for any portion of a
13 meeting held for the purpose of identifying or vetting
14 applicants for president of a state university or a
15 Florida College System institution, including any
16 portion of a meeting which would disclose certain
17 personal identifying information of such applicants;
18 requiring that a recording be made of any portion of a
19 closed meeting which would disclose personal
20 identifying information of such applicants; providing
21 that no portion of a closed meeting may be held off
22 the record; providing that the recording of any closed
23 portion of a meeting is exempt from public records
24 requirements; specifying that certain meetings are not
25 exempt from public meeting requirements; providing for
26 future legislative review and repeal of the
27 exemptions; providing a statement of public necessity;
28 providing an effective date.
29

Page 1 of 4

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

585-02107-22

2022520c1

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

31

32 Section 1. Section 1004.098, Florida Statutes, is created
33 to read:

34 1004.098 Applicants for president of a state university or
35 Florida College System institution; public records exemption;
36 public meetings exemption.—

37 (1) (a) Any personal identifying information of an applicant
38 for president of a state university or a Florida College System
39 institution held by a state university or a Florida College
40 System institution is confidential and exempt from s. 119.07(1)
41 and s. 24(a), Art. I of the State Constitution.

42 (b) Notwithstanding paragraph (a), the personal identifying
43 information of an applicant included in the final group of
44 applicants for president of a state university or a Florida
45 College System institution is no longer confidential and exempt
46 from s. 119.07(1) and s. 24(a), Art. I of the State Constitution
47 beginning at the earlier of the date the final group of
48 applicants to be considered for president is established or 21
49 days before the date of a meeting at which an interview of an
50 applicant will be conducted or at which final action or a vote
51 is to be taken on the offer of the employment of an applicant as
52 president.

53 (2) (a) Any portion of a meeting held for the purpose of
54 identifying or vetting applicants for president of a state
55 university or a Florida College System institution, including
56 any portion of a meeting which would disclose personal
57 identifying information of such applicants which is otherwise
58 confidential and exempt under subsection (1), is exempt from s.

Page 2 of 4

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

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2022520c1

59 286.011 and s. 24(b), Art. I of the State Constitution.

60 (b) A complete recording must be made of any portion of a
 61 meeting which is closed pursuant to paragraph (a), and any
 62 closed portion of such meeting may not be held off the record.
 63 The recording of the closed portion of a meeting is exempt from
 64 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

65 (c) The exemption provided in paragraph (a) does not apply
 66 to:

67 1. Any portion of a meeting held for the purpose of
 68 establishing qualifications for the position or establishing any
 69 compensation framework to be offered to an applicant for
 70 president of a state university or a Florida College System
 71 institution.

72 2. Any meeting that is held after a final group of
 73 applicants for president of a state university or a Florida
 74 College System institution has been established.

75 (3) This section is subject to the Open Government Sunset
 76 Review Act in accordance with s. 119.15 and shall stand repealed
 77 on October 2, 2027, unless reviewed and saved from repeal
 78 through reenactment by the Legislature.

79 Section 2. The Legislature finds that it is a public
 80 necessity that any personal identifying information of an
 81 applicant for president of a state university or a Florida
 82 College System institution held by a state university or a
 83 Florida College System institution be made confidential and
 84 exempt from s. 119.07(1), Florida Statutes, and s. 24(a),
 85 Article I of the State Constitution. The Legislature also finds
 86 that it is a public necessity that any portion of a meeting held
 87 for the purpose of identifying or vetting applicants for

585-02107-22

2022520c1

88 president of a state university or a Florida College System
 89 institution, including any portion of a meeting which would
 90 disclose personal identifying information of such applicants, be
 91 made exempt from s. 286.011, Florida Statutes, and s. 24(b),
 92 Article I of the State Constitution, and that the recording of
 93 such meeting be made exempt from s. 119.07(1), Florida Statutes,
 94 and s. 24(a), Article I of the State Constitution. The task of
 95 filling the position of president of a state university or a
 96 Florida College System institution is often conducted by an
 97 executive search committee. Many, if not most, applicants for
 98 such a position are currently employed at another job at the
 99 time they apply and could jeopardize their current positions if
 100 it were to become known that they were seeking employment
 101 elsewhere. These exemptions from public records and public
 102 meetings requirements are needed to ensure that a search
 103 committee can avail itself of a pool of the most experienced and
 104 qualified applicants from which to fill the position. If
 105 potential applicants fear the possibility of losing their
 106 current jobs as a consequence of attempting to progress along
 107 their chosen career path or simply seeking different and more
 108 rewarding employment, failure to have these safeguards in place
 109 could have a chilling effect on the number and quality of
 110 applicants available to fill the position of president of a
 111 state university or a Florida College System institution.

112 Section 3. This act shall take effect upon becoming a law.



The Florida Senate

Committee Agenda Request

To: Senator Kathleen Passidomo, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: January 19, 2022

I respectfully request that **Senate Bill # 520**, relating to Public Records and Public Meetings, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in black ink, appearing to read "Jeff Brandes", with a long horizontal line extending to the right.

Senator Jeff Brandes
Florida Senate, District 24

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to Senate professional staff conducting the meeting

520

Bill Number or Topic

Amendment Barcode (if applicable)

1/27/22

Meeting Date

Rules

Committee

Name Alexis Montalvo

Phone 954 5361030

Address 213 S Adams St

Street

Email Alexis.Montalvo@floridaea.org

Tallahassee

FL

32301

City

State

Zip

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Education Association

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

0520

1/27/22

Meeting Date

Bill Number or Topic

RULES

Committee

Deliver both copies of this form to Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name

ERIC RODRIGUEZ

Phone

(386) 344-2826

Address

8833 141 lane

Email

onlytruth@windsfreem.net

Street

Live oak

State

FL

Zip

32060

City

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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1/27/22

Meeting Date

SB 520

Bill Number or Topic

Rules

Committee

Amendment Barcode (if applicable)

Name Mark Motl

Phone 386-916-9275

Address 115 Vintage Ln

Email mamotl@gmail.com

Street

Palatka

FL

32177

City

State

Zip

Speaking: For Against Information OR Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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Senate professional staff conducting the meeting

1/27/22

Meeting Date

Rules

Committee

0520

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Angela Callahan

Phone

904-333-3733

Address

11409 Confederate Ln

Email

garlicngadica@yahoo.com

Street

Glen St Mary FL

32040

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without
compensation or sponsorship.

I am a registered lobbyist,
representing:

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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1/27/22

Meeting Date

S Rules

Committee

520

Bill Number or Topic

Amendment Barcode (if applicable)

Name GLENDA ABICHT (ABBOTT)

Phone 786-376-1181

Address 4305 SW 98 AVE.

Email GLENDA.ABICHT@GMAIL.COM

Street

MIAMI

FL

33165

City

State

Zip

Speaking: [] For [] Against [] Information OR Waive Speaking: [] In Support [X] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[X] I am appearing without compensation or sponsorship.

[] I am a registered lobbyist, representing:

[] I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022 Joint Rules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

SB 520

Bill Number or Topic

1-27-2022

Meeting Date

Deliver both copies of this form to Senate professional staff conducting the meeting

Rules

Committee

Amendment Barcode (if applicable)

Name

Patricia Farley

Phone

321-794-1955

Address

173 Coral Way E.

Email

pfarley-101@hotmail.com

Street

Indiantonic FL 32903

City

State

Zip

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. 511.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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SB 0520 Bill Number or Topic

1/27/22 Meeting Date
Rules Committee

Name Victoria Smith Phone (352) 442-1397

Address 7225 W. Riverbend Rd Email vjosephccea@gmail.com
Dunnellon, FL 34433

Speaking: [] For [] Against [] Information OR Waive Speaking: [] In Support [X] Against

PLEASE CHECK ONE OF THE FOLLOWING:

- [X] I am appearing without compensation or sponsorship.
[] I am a registered lobbyist, representing:
[] I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022 Joint Rules.pdf (flsenate.gov)

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The Florida Senate

APPEARANCE RECORD

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1/27/22

Meeting Date

SB 0520

Bill Number or Topic

Rules

Committee

Amendment Barcode (if applicable)

Name Vince Laborante

Phone 352-631-4464

Address 12609 Stone House Loop

Email vlaborante@

Street

AO L.COM

Bayonet Pt, FL 34667

City

State

Zip

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

1-27-22

Meeting Date

SB0520

Bill Number or Topic

Deliver both copies of this form to Senate professional staff conducting the meeting

Rules

Committee

Amendment Barcode (if applicable)

Name Helen Hamel

Phone 352-816-0626

Address 3445 SE Hwy 42

Email helen.hamel.87@gmail

Street

Summerfield FL

34491

City

State

Zip

Speaking: For Against Information OR Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

1-27-2022

Meeting Date

SB-0520

Bill Number or Topic

RULES

Committee

Deliver both copies of this form to Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name GABRIEL TUBENDSTEIN

Phone 914 806 7896

Address 2039 N MERIDIAN RD
Street

Email gabetug@gmail.com

TALLAHASSEE
City

FL
State

32303
Zip

Speaking: For Against Information OR Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

520

1/27/22

Meeting Date

Bill Number or Topic

Rules

Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name Candace Churchill

Phone 352-281-7454

Address 556 NE 11th St

Email —

Street

Gainesville FL 32601

City

State

Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to Senate professional staff conducting the meeting

1/27/22

Meeting Date

SB 520

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Lare Allen

Phone

407 837 2243

Address

3331 Primrose Willow

Email

N8tivistuff@gmail

Street

Hermosa

State

FL

Zip

34773

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to Senate professional staff conducting the meeting

F 27-22

Meeting Date

Rules

Committee

520

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Deandre Poole

Phone

561-229-3456

Address

2825 Foxhall Dr. W

Email

deandrepoole@yahoo.com

Street

W PB

City

FL

State

33417

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1, [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

SB 520

Bill Number or Topic

Deliver both copies of this form to Senate professional staff conducting the meeting

1/27/22

Meeting Date

Rules Committee

Committee

Amendment Barcode (if applicable)

Name Robin Goodman

Phone

850-345-0146

Address 850 S Gadsden St Apt 418

Email

rgoodman@fsu.edu

Street

Talla.

City

FL

State

32301

Zip

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

520

Bill Number or Topic

1-27-02

Meeting Date

Deliver both copies of this form to Senate professional staff conducting the meeting

Rules

Committee

Amendment Barcode (if applicable)

Name Patty Bell Thomas

Phone

Address 525 515 Karcher Ave

Email pballthomas@netscape.net

Street

Tallah

FL

32307

City

State

Zip

Speaking: For Against Information OR Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to Senate professional staff conducting the meeting

1/27/22

Meeting Date

Rules

520

Bill Number or Topic

Committee

SCOTT MAZUR

Name

Amendment Barcode (if applicable)

(850) 514-5322

Phone

Address

3319 DARTMOUTH DR

Email

mbuc55@concert.net

Street

TALCAHASSEE

City

FL

State

32312

Zip

Speaking: For Against Information

OR

Waive Speaking: In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to Senate professional staff conducting the meeting

1-27-22

Meeting Date

RULES

Committee

520

Bill Number or Topic

Amendment Barcode (if applicable)

Name ELIZABETH KEY-RAIMER

Phone 813-293-3498

Address 8520 Fawn Creek Dr

Email ekeyraimer@gmail.com

Street

TAMPA

FL

33626

City

State

Zip

Speaking: For Against Information OR Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to Senate professional staff conducting the meeting

1/27/22

Meeting Date

520

Bill Number or Topic

S Rules

Committee

Amendment Barcode (if applicable)

Name Dr. Ana Ciereszko

Phone 305 279 0621

Address 11420 N. Kendall Dr. #107

Email aciereszko@yahoo.com

Street

Miami

FL

33176

City

State

Zip

Speaking: For Against Information OR Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

United Faculty of Miami Dade College

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

Jan-27-2022

Meeting Date

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

SB0520

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name *Dr. Linda Hill-Perdue*

Phone *(83) 504-6463*

Address *2005 Riverforest Dr.*

Email *linda.perdue@hcs.net*

Land O Lakes, FL 34638

City State Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to Senate professional staff conducting the meeting

01/27/22 Meeting Date

SB0520 Bill Number or Topic

Rules Committee

Amendment Barcode (if applicable)

Name Heather Weaver

Phone 904-655-1573

Address 316 Aquarius Conc Street

Email heatherweaver490@yahoo

OP FL 32073 City State Zip

Speaking: [] For [] Against [] Information OR Waive Speaking: [] In Support [X] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[X] I am appearing without compensation or sponsorship.

[] I am a registered lobbyist, representing:

[] I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022 Joint Rules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

SB 520

1-27-2022

Meeting Date

Bill Number or Topic

Senate Rules

Committee

Deliver both copies of this form to Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name Victoria Kidwell

Phone 904 962-6672

Address 3600 Trail Ridge Rd

Email Vicki-cliff@hotmail.com

Street

Middleburg FL 32068

City

State

Zip

Speaking: [] For [] Against [] Information OR Waive Speaking: [] In Support [x] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[x] I am appearing without compensation or sponsorship.

[] I am a registered lobbyist, representing:

[] I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022 Joint Rules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to Senate professional staff conducting the meeting

1/27/2020
Meeting Date

SB 520
Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Diana Moore

Phone 407-238-0501

Address 11298 Papyrus Lane
Street

Email missmoore302@yahoo.com

Orlando, FL 32821
City State Zip

Speaking: For Against Information OR Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

- I am appearing without compensation or sponsorship.
- I am a registered lobbyist, representing:
- I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

Jan. 27

Meeting Date

0520

Bill Number or Topic

RULES

Committee

Amendment Barcode (if applicable)

Name Camila Cisneros

Phone (786) 499-4393

Address _____

Email _____

Street

Miami

City

FL

State

33141

Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to Senate professional staff conducting the meeting

3/27/22

Meeting Date

SB 520

Bill Number or Topic

Rules

Committee

Amendment Barcode (if applicable)

Name Dr. Rick Templin

Phone 550-229-6926

Address 135 S. Monroe

Email

Street

Tallahassee

FL

32304

City

State

Zip

Speaking: For Against Information OR Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida AFL-CIO

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. 511.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to Senate professional staff conducting the meeting

11/27/2022

Meeting Date

Rules

Committee

520

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Elisabeth Emery

Phone

352-357-7104

Address

10300 Pebblestone Ct

Email

emeryelizabeth@comcast.net

Street

Leesburg

City

FL

State

32788

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to Senate professional staff conducting the meeting

1/27/22

Meeting Date

SB 520

Bill Number or Topic

Rules

Committee

Amendment Barcode (if applicable)

Name Andrew Gothard

Phone (205) 389-4981

Address 14401 S Military Trl C-101

Email andrew.gothard@flsenate.gov

Street

Delray Beach FL

33484

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to Senate professional staff conducting the meeting

1/27/22

Meeting Date

Rules

Committee

~~520~~

520

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Patrick Nimer

Phone

239 321 9569

Address

0701 Wesleyan Dr #7

Email

patricknimer@yahoo.com

Street

Park Meadows

FL

33913

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1-27-22

Meeting Date

SB 520

Bill Number (if applicable)

Topic SB 520

Amendment Barcode (if applicable)

Name Virginia Hamrick

Job Title staff attorney

Address 317 E Park Ave

Phone 850-222-3518

Street

Tallahassee

City

FL

State

32309

Zip

Email vhamrick@floridafirst.org

Speaking: For Against Information

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

Representing Florida First Amendment Foundation

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

1/27/2022

Meeting Date

520

Bill Number or Topic

Rules

Committee

Amendment Barcode (if applicable)

Name **Matthew Lata**

Phone **8503221361**

Address **3556 Gardenview WAY**

Email **matthewlata@gmail.com**

Street

Tallahassee

fl

32309

City

State

Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to Senate professional staff conducting the meeting

1/27/22

Meeting Date

Rules

Committee

520

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Regina Gilmore

Phone

904-386-1908

Address

280 Colorado Springs Way

Street

Email

gina.gilmore89@gmail.com

St. Augustine FL

City

State

32092

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla, Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

27/Jan/2022

Meeting Date

The Florida Senate
APPEARANCE RECORD

520

Bill Number or Topic

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name IZUCHUKWU EZUKANMA

Phone 352 792 7789

Address 919 NW 10th Ave

Email izuezukanna@gmail.com

Street

GAINESVILLE FL

City

State

Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

SB 520

1/27/2022

Meeting Date

Bill Number or Topic

Senate Rules

Deliver both copies of this form to
Senate professional staff conducting the meeting

Committee

Amendment Barcode (if applicable)

Name FGCU President Mike Martin

Tom Brady of Pres.

Phone 239-590-1051

Address 10501 FGCU Blvd South

Email mvmartin@fgcu.edu

Street

Fort Myers

FL

33965

City

State

Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Gulf Coast University

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

SB 0520

11/21/22

Meeting Date

Bill Number or Topic

Finance

Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name

Gilda Margaret Williams

Phone

Address

1459 W. Magnolia Circle

Email

Street

City

WPB FL 33401

State

Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

SB 0520

Bill Number or Topic

Amendment Barcode (if applicable)

1/27/22

Meeting Date

Senate Rules

Committee

Name BRAD DECORTE

Phone 727-599-9034

Address 2657 RIDGE Lane

Email bdecorte75@gmail.com

Street

Palm Harbor FL

34684

City

State

Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

SB-0520

Bill Number or Topic

Amendment Barcode (if applicable)

Deliver both copies of this form to
Senate professional staff conducting the meeting

1/27

Meeting Date

Fun

Committee

Michael Woods

Name

Phone

8130A Sedgwick

Address

Email

Street

LCS FL 33400

City

State

Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

Jan. 27, 2022

Meeting Date

SB 520

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

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Speaking:

For

Against

Information

OR

Waive Speaking:

In Support



Against

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S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/SB 566

INTRODUCER: Health Policy Committee and Senator Gruters

SUBJECT: Mental Health Professional Licensure

DATE: January 25, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rossitto-Van Winkle	Brown	HP	Fav/CS
2.	Delia	Cox	CF	Favorable
3.	Rossitto-Van Winkle	Phelps	RC	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 566 amends the minimum education requirements for licensure as a clinical social worker, marriage and family therapist, or a mental health counselor in s. 491.005, F.S.

The bill allows marriage and family therapy applicants who graduated from a program not accredited by the Commission on Accreditation for Marriage and Family Therapy Education (CAMFTE), or from a Florida university program accredited by the Council for Accreditation of Counseling and Related Educational Programs (CACREP), on July 1, 2020, when the current s. 491.005, F.S., took effect, to now apply for licensure. Under the bill, marriage and family therapy graduates would have until September 1, 2027, to meet the minimum education requirements for licensure by earning a master's degree from any institutionally-accredited college or university, not just the CACREP.

The bill updates the education requirements for marriage and family therapists' in reference to accreditation by the Commission on Recognition of Postsecondary Accreditation (CORPA), which was dissolved in 1997. CORPA is replaced it with its successor, the Council for Higher Education Accreditation (CHEA), or its successors.

The bill also amends the minimum education requirements for licensure as a mental health counselor to include a master's degree from a program accredited by the Masters in Psychology and Counseling Accreditation Council (MPCAC), or an equivalent accrediting body, as a degree that qualifies an applicant for licensure.

The bill deletes obsolete provisions regarding the Department of Health (DOH) purchasing examinations for clinical social workers and Marriage and Family Therapists. Additionally, the bill revises the nomenclature for the accrediting authorities for marriage and family therapists and mental health counselors from a “regional” accrediting body, to an “institutional” accrediting body, to align with the U.S. Department of Education’s current vernacular and eliminates any perceived differences between regional and national accrediting bodies.

The bill takes effect upon becoming a law.

II. Present Situation:

The Department of Health

The Legislature created the DOH to protect and promote the health of all residents and visitors in the state.¹ The DOH is charged with the regulation of health care practitioners for the preservation of the health, safety, and welfare of the public. The Division of Medical Quality Assurance (MQA) is responsible for the boards² and professions within the DOH.³

Mental Health Professionals Licensure

Section 491.005, F.S., sets out the educational and examination requirements for a clinical social worker, marriage and family therapist, and mental health counselor to obtain a license by examination in Florida. An individual applying for licensure by examination who has satisfied the clinical experience requirements of s. 491.005, F.S., or an individual applying for licensure by endorsement pursuant to s. 491.006, F.S., intending to provide clinical social work, marriage and family therapy, or mental health counseling services in Florida, while satisfying coursework or examination requirements for licensure, must obtain a provisional license in the profession for which he or she is seeking licensure prior to beginning practice.⁴

An individual who has not satisfied the postgraduate or post-master’s level of experience requirements under s. 491.005, F.S., must register as an intern in the profession for which he or she is seeking licensure before commencing the post-master’s experience requirement. An individual who intends to satisfy part of the required graduate-level practicum, internship, or field experience outside the academic arena, must register as an intern in the profession for which he or she is seeking licensure before commencing the practicum, internship, or field experience.⁵

¹ Section 20.43, F.S.

² Under s. 456.001(1), F.S., the term “board” is defined as any board, commission, or other statutorily created entity, to the extent such entity is authorized to exercise regulatory or rulemaking functions within the DOH or, in some cases, within the MQA.

³ Section 20.43(3), F.S.

⁴ Section 491.0046, F.S.

⁵ Section 491.0045, F.S.

Clinical Social Workers

Section 491.005(1), F.S., relates to licensure by examination for clinical social workers. The DOH must issue a license to an applicant as a clinical social worker if the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling (Board) certifies that the applicant:

- Has submitted an application and appropriate fees;
- Has earned a doctoral degree in social work from a graduate school of social work accredited by an accrediting agency recognized by the U.S. Department of Education, or a master's degree in social work from a graduate school of social work which:
 - Was accredited by the Council on Social Work Education (CSWE);
 - Was accredited by the Canadian Association of Schools of Social Work (CASSW); or
 - Has been determined to be an equivalent program to programs approved by the CSWE by the Foreign Equivalency Determination Service of the CSWE;
 - Completed all of the following coursework:
 - A supervised field placement during which the applicant provided clinical services directly to clients; and
 - Twenty-four semester hours or thirty-two quarter hours in theory of human behavior and practice methods as courses in clinically oriented services, with a minimum of one course in psychopathology and no more than one course in research;
- Has completed at least two post graduate years of clinical social work experience under the supervision of a licensed clinical social worker or the equivalent supervisor as determined by the Board;⁶
- Has passed a theory and practice examination; and
- Demonstrates, in a manner designated by Board rule, knowledge of the laws and rules governing the practice of clinical social work, marriage and family therapy, and mental health counseling.

Marriage and Family Therapists

Section 491.005(3), F.S., relates to licensure by examination for marriage and family therapists. The DOH must issue a license to an applicant as a marriage and family therapist if the Board certifies that the applicant has:

- Submitted an application and appropriate fee;
- A minimum of a master's degree with major emphasis in marriage and family therapy or a closely related field from a:
 - Program accredited by the CAMFTE; or
 - Florida university program accredited by the CACREP;
- Documentation of the completion of graduate courses approved by the Board;⁷
- Completed at least two years of clinical experience during which 50 percent of the applicant's clients were receiving marriage and family therapy services:

⁶ Section 491.005(1)(c), F.S. An individual who intends to practice in Florida to satisfy clinical experience requirements must register with the DOH pursuant to s. 491.0045, F.S., before commencing practice.

⁷ Section 491.005(3)(b), F.S. If the course title that appears on the applicant's transcript does not clearly identify the content of the coursework, the applicant must provide additional documentation, including, but not limited to, a syllabus or catalog description published for the course.

- At the post-master's level; and
- Under the supervision of a licensed marriage and family therapist with at least five years of experience, or the equivalent; and whom the Board determines is a qualified supervisor;
- Passed a theory and practice examination provided by the DOH;⁸
- Demonstrated, in a manner designated by Board rule, knowledge of the laws and rules governing the practice of clinical social work, marriage and family therapy, and mental health counseling.⁹

The required master's degree must have been earned at an institution of higher education that, at the time the applicant graduated, was fully accredited by a regional accrediting body recognized by:

- The Commission on Recognition of Postsecondary Accreditation (CRPA);
- A member in good standing with the Association of Universities and Colleges of Canada; or
- An institution of higher education located outside the United States and Canada which, at the time the applicant attended and graduated, maintained a standard of training substantially equivalent to the standards of training of those institutions in the United States which are accredited by a regional accrediting body recognized by the CRPA.¹⁰

The applicant has the burden of establishing that all above requirements for licensure are met.

An applicant who has a master's degree from a program that did not emphasize marriage and family therapy may complete the coursework requirement in an institution fully accredited by the CAMFTE, and recognized by the U.S. Department of Education.¹¹

To satisfy the clinical experience requirements, an individual who intends to practice in Florida must register with the DOH before he or she may commence practice.¹²

If a graduate has a master's degree with a major emphasis in marriage and family therapy or a closely related field which did not include all of the coursework required by the Board, the post-master's level clinical experience may not commence until the applicant has completed a minimum of ten of the courses required, as determined, by the Board. At least six semester hours, or nine quarter hours, must have been completed in the area of marriage and family systems, theories, or techniques.¹³

⁸ See s. 491.004(5), F.S., and Fla. Admin. Code R. 64B4-3.003(2)(c) and 3 (2021). The DOH no longer provides the theory and practice examination for Marriage and Family Therapists. The examination used is the one developed by the Examination Advisory Committee of the Association of Marital and Family Therapy Regulatory Board (AMFTRB). The minimum passing score is established by that provider as well.

⁹ See Fla. Admin. Code R. 64B4-3.0035 (2021).

¹⁰ *Id.* Such foreign education and training must have been received in an institution or program of higher education officially recognized by the government of the country in which it is located as an institution or program to train students to practice as professional marriage and family therapists or psychotherapists.

¹¹ Section 491.005(3)(b), F.S.

¹² Section 491.005(3)(c), F.S.

¹³ *Id.*

During the two years of required clinical experience, the applicant must provide direct individual, group, or family therapy and counseling, including cases involving:

- Unmarried dyads;
- Married couples;
- Separating and divorcing couples; and
- Family groups that include children.¹⁴

A doctoral internship may be applied toward the clinical experience requirements.

A licensed mental health professional must be on the premises when clinical services are provided by a registered intern in a private practice setting.¹⁵

The DOH must issue a dual license to persons licensed as psychologists, clinical social workers, mental health counselors, and psychiatric advanced practice registered nurses, if the candidate has:

- A valid, active license for at least three years; and
- Passed the examination provided by the DOH for marriage and family therapy.¹⁶

Mental Health Counselors

Section 491.005(4), F.S., relates to licensure by examination for mental health counselors. Education and training in mental health counseling must have been received in an institution of higher education that, at the time the applicant graduated, was fully accredited by:

- A regional accrediting body recognized by the Council for Higher Education Accreditation (CHEA) or its successor;
- A publicly recognized member in good standing with the Association of Universities and Colleges of Canada; or
- An institution of higher education located outside the United States and Canada which, at the time the applicant was enrolled and at the time the applicant graduated, was officially recognized by the government of the country in which it is located as an institution or program, to train students to practice as mental health counselors that maintained a standard of training substantially equivalent to the standards of training of those institutions in the United States which are accredited by a regional accrediting body recognized by the CHEA or its successor.

The DOH must issue a license to an applicant as a mental health counselor if the Board certifies that the applicant has:

- Submitted an application and appropriate fees;
- Earned a minimum of a master's degree from:

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.* For the purposes of dual licensure, the department shall license as a marriage and family therapist any person who meets the requirements of s. 491.0057, F.S. Fees for dual licensure may not exceed those stated in this section.

- A mental health counseling program accredited by the CACREP¹⁷ which includes clinical and didactic instruction, including courses in human sexuality and substance abuse; or
- A non-CACREP accredited program related to the practice of mental health counseling, but with coursework and practicum, internship, or fieldwork that meet all of the following:
 - Thirty-three semester hours, or forty-four quarter hours, which must include a minimum of three semester hours, or four quarter hours, of graduate-level coursework in 11 specified content areas;¹⁸ or
 - A minimum of one graduate level course emphasizing the diagnostic processes, including differential diagnosis and the use of the current diagnostic tools, such as the current edition of the American Psychiatric Association’s Diagnostic and Statistical Manual of Mental Disorders. the common core curricular experience; or
 - An equivalent program to the two previously described options, as determined by the Board, including at least 700 hours of university-sponsored supervised clinical practicum, internship, or field work, that includes at least 280 hours of direct client services, as required by CACREP accrediting standards for mental health counseling programs. This experience may not be used to satisfy the post-master’s clinical experience requirement;
 - Had at least two years of clinical experience in mental health counseling, which must be at the post-master’s level under the supervision of a licensed mental health counselor or the equivalent who is a Board qualified supervisor;¹⁹
 - Passed a theory and practice examination provided by the DOH;²⁰ and
 - Demonstrated, in a manner designated by Board rule, knowledge of the laws and rules governing the practice of clinical social work, marriage and family therapy, and mental health counseling.²¹

¹⁷ Council for Accreditation of Counseling & Related Educational Programs, *2016 CACREP Standards*, available at <http://www.cacrep.org/wp-content/uploads/2018/05/2016-Standards-with-Glossary-5.3.2018.pdf> (last visited January 6, 2022).

¹⁸ See s. 491.005(4)(b)1.a., F.S. The graduate course work must include the following 11 content areas: counseling theories and practice; human growth and development; diagnosis and treatment of psychopathology; human sexuality; group theories and practice; individual evaluation and assessment; career and lifestyle assessment; research and program evaluation; social and cultural foundations; substance abuse; and legal, ethical, and professional standards issues in the practice of mental health counseling. Courses in research, thesis or dissertation work, practicums, internships, or fieldwork may not be applied toward this requirement.

¹⁹ Section 491.005(4), F.S., An individual who intends to practice in Florida to satisfy the clinical experience requirements must register pursuant to s. 491.0045, F.S., before commencing practice. If a graduate has a master’s degree with a major related to the practice of mental health counseling which did not include all the coursework required under sub-subparagraphs (b)1.a. and b., credit for the post-master’s level clinical experience may not commence until the applicant has completed a minimum of seven of the courses required under sub-subparagraphs (b)1.a. and b., as determined by the Board, one of which must be a course in psychopathology or abnormal psychology. A doctoral internship may be applied toward the clinical experience requirement.

²⁰ See s. 491.004(5), F.S., and Fla. Admin Code R. 64B4-3.003(2)(b) and 3 (2021). The DOH no longer provides the theory and practice examination for mental health counselors. The examination used is the National Clinical Mental Health Counseling Examination (NCMHCE), clinical simulation examination developed by the National Board for Certified Counselors (NBCC). Applicants for licensure by endorsement may use the National Counselor Examination for Licensure and Certification (NCE) if the exam was taken prior to the year 2000. The minimum passing score is established by the test provider.

²¹ Fla. Admin. Code R. 64B4-3.0035 (2021).

Beginning July 1, 2025, an applicant for mental health counseling licensure must have a master's degree from a program that is accredited by the CACREP which consists of at least 60 semester hours or 80 quarter hours.²²

A licensed mental health professional is required to be on the premises when clinical services are provided by a registered intern in a private practice setting. Section 491.005, F. S., contains the same provision for registered clinical social worker interns.²³

Recent Legislative History of Section 491.005, F.S.

The current program accreditation and licensure requirements in s. 491.005, F.S., for social workers, marriage and family therapists and mental health counselors were enacted during the 2020 legislative session.²⁴

As of July 1, 2020 an applicant seeking licensure under current s. 491.005(4), F.S., as a mental health counselor was required to have a master's degree from an a program accredited by the CACREP beginning July 1, 2025. Until July 1, 2025, mental health counseling students in programs related to the practice of mental health counseling that were not accredited by the CACREP could still obtain a license as a mental health counselor by satisfying the additional statutory requirements in s. 491.005(4), F.S., which required coursework and practicum, internship, or fieldwork consisting of at least 60 semester hours or 80 quarter hours and meeting other specific requirements. This window of time also gave those non-CACREP accredited programs time to apply for and obtain CACREP accreditation.²⁵

However, for marriage and family therapy licensure candidates, the current s. 491.005(3), F.S., contains no similar window of time for students to obtain licensure, or programs to obtain CAMFTE or CACREP accreditation. On July 1, 2020, students who had satisfied the previous requirements of s. 491.005(3), F.S., for licensure in programs not accredited by the CAMFTE, or who were in a Florida program not accredited by the CACREP, became immediately unable to obtain a license to practice marriage and family therapy without seeking a variance from the Board.

III. Effect of Proposed Changes:

Clinical Social Workers

CS/SB 566 removes from s. 491.005(1), F.S., obsolete language for clinical social workers relating to the recovery by the DOH of the costs of purchasing examinations. The DOH no longer purchases examinations. The bill also makes minor technical changes to s. 491.005(1), F.S.

²² Section 491.005(4)(b), F.S.

²³ *Id.*

²⁴ Chapter 2020-133, L.O.F.

²⁵ Section 491.005(4)(b), F.S.

Marriage and Family Therapist Licensure

CS/SB 566 amends s. 491.005(3), F.S., to create three pathways to licensure by requiring applicants for a marriage and family therapy license to meet the minimum educational requirements by one of the following methods:

- A minimum of a master's degree in marriage and family therapy from a college or university that is accredited by the CAMFTE;
- A minimum of a master's degree with a major emphasis in marriage and family therapy from a college or university that is accredited by the CACREP and graduate courses approved by the Board; or
- A minimum of a master's degree with an emphasis in marriage and family therapy or a closely related field, with a degree conferred date before September 1, 2027, from an institutionally accredited college or university and graduate courses approved by the Board.

The bill allows the DOH to license marriage and family therapy students or graduates who have graduated from a program not accredited by CAMFTE or CACREP until September 1, 2027, and gives unaccredited programs time to obtain accreditation if desired.

The bill updates the education requirements for marriage and family therapists, including current law's obsolete reference to accreditation by the Commission on Recognition of Postsecondary Accreditation (CORPA), which was dissolved in 1997. The bill replaces the CORPA with the Council for Higher Education Accreditation (CHEA) or its successors.

Mental Health Counselor Licensure

CS/SB 566 amends s. 491.005(4), F.S., to create additional pathways to licensure. Beginning July 1, 2025, applicants for a mental health counseling license must meet the minimum educational requirements by attaining a minimum of a master's degree from a mental health counseling program:

- Accredited by the CACREP, consisting of at least 60 semester hours or 80 quarter hours of clinical and didactic instruction, including a course in human sexuality and a course in substance abuse; or
- Related to the practice of mental health counseling, but not accredited by the CACREP, which includes coursework and practicum, internship or fieldwork, that consists of at least 60 semester hours, or 80 quarter hours, and which meets multiple additional requirements, including:
 - Thirty-three semester hours or 44 quarter hours of graduate coursework in 11 different content areas;²⁶
 - A thesis or dissertation;
 - Practicums, internships, or fieldwork that may not be applied toward the required courses in 11 different content areas;
 - Graduate level coursework addressing diagnostic processes, including differential diagnosis and the use of the current diagnostic tools, such as the current edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders; or

²⁶ Section 491.005(4)(b), F.S.

- The equivalent, as determined by the Board, of at least 700 hours of university-sponsored, supervised clinical practicum, internship, or field experience that includes at least 280 hours of direct client services, as required in the accrediting standards of the CACREP for mental health counseling programs. This experience may not be used to satisfy any post-master's clinical experience requirement; or
- Accredited by the MPCAC or an equivalent accrediting body which consists of at least 60 semester hours or 80 quarter hour.

The bill allows the DOH to license mental health counseling students or graduates, who after July 1, 2025, would have been unable to obtain a Florida license, if they had graduated from a program not accredited by the CACREP. The bill adds the MPCAC as an approved accrediting agency as well as other programs accredited by equivalent accrediting bodies, for the purposes of meeting the minimum educational qualifications for licensure as a mental health counselor prospectively as of the bill's effective date.

The bill takes effect upon becoming a 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 DOH indicates that it will experience a non-recurring increase in workload and costs associated with updating the Licensing and Enforcement Information Database System, Online Service Portal, Cognitive Virtual Agent, and Board website to change to the licensing requirements for marriage and family therapists and mental health counselors. Current resources and budget authority are adequate to absorb these costs.²⁷

VI. Technical Deficiencies:

None.

VII. Related Issues:

Sections 491.005(3) and 491.005(4), F.S., require master's degrees to be earned from programs accredited by "regional" accrediting bodies. On February 26, 2020, the U.S. Department of Education issued a letter of guidance, specifying that final regulations published in that year omit references to "regional" and "national" accreditation. The letter specifies that "[b]ecause the Department holds all accrediting agencies to the same standards, distinctions between regional and national accrediting agencies are unfounded." Provisions implemented in 34 C.F.R. s. 602.32(d), relating to the recognition of accrediting agencies, will become effective January 1, 2021.²⁸ The U.S. Department of Education now defines agencies that accredit institutions of higher education as "institutional" accrediting agencies.²⁹ The bill modifies the language in s. 491.005, F.S., to reflect this change.

VIII. Statutes Affected:

This bill substantially amends section 491.005 of the Florida Statutes.

IX. Additional Information:

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

CS by Health Policy on December 2, 2021:

The CS:

- Amends the bill title to include clinical social workers;
- Updates language to reflect the terminology change by the U.S. Department of Education to define agencies that accredit institutions of higher education as "institutional" accrediting agencies, rather than "regional" accrediting agencies;
- Updates the education requirements for marriage and family therapists in reference to accreditation by the Commission on Recognition of Postsecondary Accreditation

²⁷ Department of Health, *2022 Agency Legislative Bill Analysis*, (Oct. 25, 2021), p. 4 (on file with the Senate Health Policy Committee).

²⁸ U.S. Department of Education, Office of the Under Secretary, *Re: Final Accreditation and State Authorization Regulations* (Feb. 26, 2021) available at <https://sacscoc.org/app/uploads/2020/03/State-Authorization-Letter-w-Diane-Signature-2.26.19.pdf> (last visited Nov. 20, 2021).

²⁹ See 34 C.F.R. s. 602.3 (2021).

(CORPA), which was dissolved in 1997; and replaces it with the Council for Higher Education Accreditation (CHEA) or its successors;

- Removes obsolete language for clinical social workers and marriage and family therapists relating to the recovery by the DOH of the costs to purchasing examinations, because the DOH no longer purchases examinations; and
- Makes other minor technical changes.

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 the Committee on Health Policy; and Senator Gruters

588-01609-22

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1 A bill to be entitled
2 An act relating to mental health professional
3 licensure; amending s. 491.005, F.S.; revising
4 licensure requirements for clinical social workers,
5 marriage and family therapists, and mental health
6 counselors; providing an effective date.

7
8 Be It Enacted by the Legislature of the State of Florida:

9
10 Section 1. Subsections (1), (3), and (4) of section
11 491.005, Florida Statutes, are amended to read:

12 491.005 Licensure by examination.—

13 (1) CLINICAL SOCIAL WORK.—Upon verification of
14 documentation and payment of a fee not to exceed \$200, as set by
15 board rule, plus the actual per applicant cost to the department
16 for purchase of the examination from the American Association of
17 State Social Worker's Boards or a similar national organization,
18 the department shall issue a license as a clinical social worker
19 to an applicant whom ~~who~~ the board certifies has met all of the
20 following criteria:

21 (a) ~~Has~~ Submitted an application and paid the appropriate
22 fee.

23 (b)1. ~~Has~~ Received a doctoral degree in social work from a
24 graduate school of social work which at the time the applicant
25 graduated was accredited by an accrediting agency recognized by
26 the United States Department of Education or ~~has~~ received a
27 master's degree in social work from a graduate school of social
28 work which at the time the applicant graduated:

29 a. Was accredited by the Council on Social Work Education;

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30 b. Was accredited by the Canadian Association of Schools of
31 Social Work; or

32 c. Has been determined to have been a program equivalent to
33 programs approved by the Council on Social Work Education by the
34 Foreign Equivalency Determination Service of the Council on
35 Social Work Education. An applicant who graduated from a program
36 at a university or college outside of the United States or
37 Canada must present documentation of the equivalency
38 determination from the council in order to qualify.

39 2. The applicant's graduate program ~~must have~~ emphasized
40 direct clinical patient or client health care services,
41 including, but not limited to, coursework in clinical social
42 work, psychiatric social work, medical social work, social
43 casework, psychotherapy, or group therapy. The applicant's
44 graduate program must have included all of the following
45 coursework:

46 a. A supervised field placement which was part of the
47 applicant's advanced concentration in direct practice, during
48 which the applicant provided clinical services directly to
49 clients.

50 b. Completion of 24 semester hours or 32 quarter hours in
51 theory of human behavior and practice methods as courses in
52 clinically oriented services, including a minimum of one course
53 in psychopathology, and no more than one course in research,
54 taken in a school of social work accredited or approved pursuant
55 to subparagraph 1.

56 3. If the course title which appears on the applicant's
57 transcript does not clearly identify the content of the
58 coursework, the applicant provided ~~shall be required to provide~~

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59 additional documentation, including, but not limited to, a
60 syllabus or catalog description published for the course.

61 (c) ~~Completed Has had~~ at least 2 years of clinical social
62 work experience, which took place subsequent to completion of a
63 graduate degree in social work at an institution meeting the
64 accreditation requirements of this section, under the
65 supervision of a licensed clinical social worker or the
66 equivalent who is a qualified supervisor as determined by the
67 board. An individual who intends to practice in Florida to
68 satisfy clinical experience requirements must register pursuant
69 to s. 491.0045 before commencing practice. If the applicant's
70 graduate program was not a program which emphasized direct
71 clinical patient or client health care services as described in
72 subparagraph (b)2., the supervised experience requirement must
73 take place after the applicant has completed a minimum of 15
74 semester hours or 22 quarter hours of the coursework required. A
75 doctoral internship may be applied toward the clinical social
76 work experience requirement. A licensed mental health
77 professional must be on the premises when clinical services are
78 provided by a registered intern in a private practice setting.

79 (d) ~~Has~~ Passed a theory and practice examination designated
80 by board rule provided by the department for this purpose.

81 (e) ~~Has~~ Demonstrated, in a manner designated by board rule
82 ~~of the board~~, knowledge of the laws and rules governing the
83 practice of clinical social work, marriage and family therapy,
84 and mental health counseling.

85 (3) MARRIAGE AND FAMILY THERAPY.—Upon verification of
86 documentation and payment of a fee not to exceed \$200, as set by
87 board rule, ~~plus the actual cost of the purchase of the~~

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88 ~~examination from the Association of Marital and Family Therapy~~
89 ~~Regulatory Board, or similar national organization, the~~
90 department shall issue a license as a marriage and family
91 therapist to an applicant who the board certifies has met all of
92 the following criteria:

93 (a) ~~Has~~ Submitted an application and paid the appropriate
94 fee.

95 (b) 1. Attained one of the following:

96 a. A minimum of a master's degree in marriage and family
97 therapy from a program accredited by the Commission on
98 Accreditation for Marriage and Family Therapy Education.

99 b. A minimum of a master's degree with a major emphasis in
100 marriage and family therapy or a closely related field from a
101 university program accredited by the Council on Accreditation of
102 Counseling and Related Educational Programs and graduate courses
103 approved by the board.

104 c. ~~Has~~ A minimum of a master's degree with an major
105 emphasis in marriage and family therapy or a closely related
106 field, with a degree conferred before September 1, 2027, from an
107 institutionally accredited college or university ~~from a program~~
108 accredited by the Commission on Accreditation for Marriage and
109 Family Therapy Education or from a Florida university program
110 accredited by the Council for Accreditation of Counseling and
111 Related Educational Programs and graduate courses approved by
112 the board ~~of Clinical Social Work, Marriage and Family Therapy,~~
113 and ~~Mental Health Counseling.~~

114 2. If the course title that appears on the applicant's
115 transcript does not clearly identify the content of the
116 coursework, the applicant provided shall ~~provide~~ additional

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117 documentation, including, but not limited to, a syllabus or
 118 catalog description published for the course. The required
 119 master's degree must have been received in an institution of
 120 higher education that, at the time the applicant graduated, was
 121 fully accredited by an institutional ~~a regional~~ accrediting body
 122 recognized by the Council for Higher Education Accreditation or
 123 its successor organization ~~Commission on Recognition of~~
 124 ~~Postsecondary Accreditation~~ or was publicly recognized as a
 125 member in good standing with the Association of Universities and
 126 Colleges of Canada, or an institution of higher education
 127 located outside the United States and Canada which, at the time
 128 the applicant was enrolled and at the time the applicant
 129 graduated, maintained a standard of training substantially
 130 equivalent to the standards of training of those institutions in
 131 the United States which are accredited by an institutional ~~a~~
 132 ~~regional~~ accrediting body recognized by the Council for Higher
 133 Education Accreditation or its successor organization ~~Commission~~
 134 ~~on Recognition of Postsecondary Accreditation~~. Such foreign
 135 education and training must have been received in an institution
 136 or program of higher education officially recognized by the
 137 government of the country in which it is located as an
 138 institution or program to train students to practice as
 139 professional marriage and family therapists or psychotherapists.
 140 The applicant has the burden of establishing that the
 141 requirements of this provision have been met, and the board
 142 shall require documentation, such as an evaluation by a foreign
 143 equivalency determination service, as evidence that the
 144 applicant's graduate degree program and education were
 145 equivalent to an accredited program in this country. An

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146 applicant with a master's degree from a program that did not
 147 emphasize marriage and family therapy may complete the
 148 coursework requirement in a training institution fully
 149 accredited by the Commission on Accreditation for Marriage and
 150 Family Therapy Education recognized by the United States
 151 Department of Education.

152 (c) Completed ~~Has had~~ at least 2 years of clinical
 153 experience during which 50 percent of the applicant's clients
 154 were receiving marriage and family therapy services, which must
 155 be at the post-master's level under the supervision of a
 156 licensed marriage and family therapist with at least 5 years of
 157 experience, or the equivalent, who is a qualified supervisor as
 158 determined by the board. An individual who intends to practice
 159 in Florida to satisfy the clinical experience requirements must
 160 register pursuant to s. 491.0045 before commencing practice. If
 161 a graduate has a master's degree with a major emphasis in
 162 marriage and family therapy or a closely related field which did
 163 not include all of the coursework required by paragraph (b),
 164 credit for the post-master's level clinical experience may not
 165 commence until the applicant has completed a minimum of 10 of
 166 the courses required by paragraph (b), as determined by the
 167 board, and at least 6 semester hours or 9 quarter hours of the
 168 course credits must have been completed in the area of marriage
 169 and family systems, theories, or techniques. Within the 2 years
 170 of required experience, the applicant shall provide direct
 171 individual, group, or family therapy and counseling to cases
 172 including those involving unmarried dyads, married couples,
 173 separating and divorcing couples, and family groups that include
 174 children. A doctoral internship may be applied toward the

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175 clinical experience requirement. A licensed mental health
176 professional must be on the premises when clinical services are
177 provided by a registered intern in a private practice setting.

178 (d) ~~Has~~ Passed a theory and practice examination designated
179 by board rule ~~provided by the department.~~

180 (e) ~~Has~~ Demonstrated, in a manner designated by board rule,
181 knowledge of the laws and rules governing the practice of
182 clinical social work, marriage and family therapy, and mental
183 health counseling.

184

185 For the purposes of dual licensure, the department shall license
186 as a marriage and family therapist any person who meets the
187 requirements of s. 491.0057. Fees for dual licensure may not
188 exceed those stated in this subsection.

189 (4) MENTAL HEALTH COUNSELING.—Upon verification of
190 documentation and payment of a fee not to exceed \$200, as set by
191 board rule, ~~plus the actual per applicant cost of purchase of~~
192 ~~the examination from the National Board for Certified Counselors~~
193 ~~or its successor organization,~~ the department shall issue a
194 license as a mental health counselor to an applicant who the
195 board certifies has met all of the following criteria:

196 (a) ~~Has~~ Submitted an application and paid the appropriate
197 fee.

198 (b)1. Attained ~~Has~~ a minimum of an earned master's degree
199 from a mental health counseling program accredited by the
200 Council for the Accreditation of Counseling and Related
201 Educational Programs which consists of at least 60 semester
202 hours or 80 quarter hours of clinical and didactic instruction,
203 including a course in human sexuality and a course in substance

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204 abuse. If the master's degree is earned from a program related
205 to the practice of mental health counseling which is not
206 accredited by the Council for the Accreditation of Counseling
207 and Related Educational Programs, then the coursework and
208 practicum, internship, or fieldwork must consist of at least 60
209 semester hours or 80 quarter hours and meet all of the following
210 requirements:

211 a. Thirty-three semester hours or 44 quarter hours of
212 graduate coursework, which must include a minimum of 3 semester
213 hours or 4 quarter hours of graduate-level coursework in each of
214 the following 11 content areas: counseling theories and
215 practice; human growth and development; diagnosis and treatment
216 of psychopathology; human sexuality; group theories and
217 practice; individual evaluation and assessment; career and
218 lifestyle assessment; research and program evaluation; social
219 and cultural foundations; substance abuse; and legal, ethical,
220 and professional standards issues in the practice of mental
221 health counseling. Courses in research, thesis or dissertation
222 work, practicums, internships, or fieldwork may not be applied
223 toward this requirement.

224 b. A minimum of 3 semester hours or 4 quarter hours of
225 graduate-level coursework addressing diagnostic processes,
226 including differential diagnosis and the use of the current
227 diagnostic tools, such as the current edition of the American
228 Psychiatric Association's Diagnostic and Statistical Manual of
229 Mental Disorders. The graduate program must have emphasized the
230 common core curricular experience.

231 c. The equivalent, as determined by the board, of at least
232 700 hours of university-sponsored supervised clinical practicum,

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233 internship, or field experience that includes at least 280 hours
 234 of direct client services, as required in the accrediting
 235 standards of the Council for Accreditation of Counseling and
 236 Related Educational Programs for mental health counseling
 237 programs. This experience may not be used to satisfy the post-
 238 master's clinical experience requirement.

239 2. ~~Has~~ Provided additional documentation if a course title
 240 that appears on the applicant's transcript does not clearly
 241 identify the content of the coursework. The documentation must
 242 include, but is not limited to, a syllabus or catalog
 243 description published for the course.

244

245 Education and training in mental health counseling must have
 246 been received in an institution of higher education that, at the
 247 time the applicant graduated, was fully accredited by an
 248 institutional ~~a regional~~ accrediting body recognized by the
 249 Council for Higher Education Accreditation or its successor
 250 organization or was publicly recognized as a member in good
 251 standing with the Association of Universities and Colleges of
 252 Canada, or an institution of higher education located outside
 253 the United States and Canada which, at the time the applicant
 254 was enrolled and at the time the applicant graduated, maintained
 255 a standard of training substantially equivalent to the standards
 256 of training of those institutions in the United States which are
 257 accredited by an institutional ~~a regional~~ accrediting body
 258 recognized by the Council for Higher Education Accreditation or
 259 its successor organization. Such foreign education and training
 260 must have been received in an institution or program of higher
 261 education officially recognized by the government of the country

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262 in which it is located as an institution or program to train
 263 students to practice as mental health counselors. The applicant
 264 has the burden of establishing that the requirements of this
 265 provision have been met, and the board shall require
 266 documentation, such as an evaluation by a foreign equivalency
 267 determination service, as evidence that the applicant's graduate
 268 degree program and education were equivalent to an accredited
 269 program in this country. Beginning July 1, 2025, an applicant
 270 must have a master's degree from a program that is accredited by
 271 the Council for Accreditation of Counseling and Related
 272 Educational Programs, the Masters in Psychology and Counseling
 273 Accreditation Council, or an equivalent accrediting body which
 274 consists of at least 60 semester hours or 80 quarter hours to
 275 apply for licensure under this paragraph.

276 (c) Completed ~~Has had~~ at least 2 years of clinical
 277 experience in mental health counseling, which must be at the
 278 post-master's level under the supervision of a licensed mental
 279 health counselor or the equivalent who is a qualified supervisor
 280 as determined by the board. An individual who intends to
 281 practice in Florida to satisfy the clinical experience
 282 requirements must register pursuant to s. 491.0045 before
 283 commencing practice. If a graduate has a master's degree with a
 284 major related to the practice of mental health counseling which
 285 did not include all the coursework required under sub-
 286 subparagraphs (b)1.a. and b., credit for the post-master's level
 287 clinical experience may not commence until the applicant has
 288 completed a minimum of seven of the courses required under sub-
 289 subparagraphs (b)1.a. and b., as determined by the board, one of
 290 which must be a course in psychopathology or abnormal

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291 psychology. A doctoral internship may be applied toward the
292 clinical experience requirement. A licensed mental health
293 professional must be on the premises when clinical services are
294 provided by a registered intern in a private practice setting.

295 (d) ~~Has~~ Passed a theory and practice examination designated
296 by board rule ~~provided by the department for this purpose.~~

297 (e) ~~Has~~ Demonstrated, in a manner designated by board rule,
298 knowledge of the laws and rules governing the practice of
299 clinical social work, marriage and family therapy, and mental
300 health counseling.

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



The Florida Senate

Committee Agenda Request

To: Senator Kathleen Passidomo, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: January 12, 2022

I respectfully request that **Senate Bill #566**, relating to Mental Health Professional Licensure, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

Problem being addressed: Revising licensure requirements for clinical social workers, marriage and family therapists, and mental health counselors.

Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Joe Gruters".

Joe Gruters

Cc: John B. Phelps, Staff Director
Tom Yeatman, Deputy Staff Director
Cynthia Futch, Committee Administrative Assistant

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 Rules

BILL: SB 704

INTRODUCER: Senator Harrell

SUBJECT: Substance Abuse Service Providers

DATE: January 25, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Delia</u>	<u>Cox</u>	<u>CF</u>	Favorable
2.	<u>Hunter</u>	<u>Ryon</u>	<u>CA</u>	Favorable
3.	<u>Delia</u>	<u>Phelps</u>	<u>RC</u>	Favorable

I. Summary:

SB 704 makes several changes to provisions governing the licensure and regulation of substance abuse treatment programs and providers, including recovery residences and recovery residence administrators.

The bill requires applicants for substance abuse service provider licensure to include the names and locations of recovery residences the applicant plans to refer patients to or accept patients from in their licensure application.

By July 1, 2022, the bill requires licensed substance abuse service providers to record the names and locations of recovery residences to which the applicant has referred patients, or from which the applicant has accepted patients, in the Provider Licensure and Designations System (PLADS) maintained by the Department of Children and Families (the DCF). Providers must update PLADS with the names and locations of any new recovery residences to which patients have been referred, or from which patients have been received, within 30 business days of referring or receiving patients. The bill subjects providers to a \$1,000 administrative fine for non-compliance beginning on July 1, 2022.

The bill prohibits certified recovery residence administrators from managing more than 50 patients at once without approval from a certification credentialing entity and prohibits management of more than 100 patients without exception. The bill also removes a cap on the number of recovery residences a certified recovery residence administrator can manage at any given time.

The bill requires substance abuse service providers to return an individual's personal effects upon the individual's discharge from treatment.

The bill may have an indeterminate negative fiscal impact to both private substance abuse service providers and state government. See Section V. Fiscal Impact Statement.

The bill is effective upon becoming a law.

II. Present Situation:

Substance abuse is the harmful or hazardous use of psychoactive substances, including alcohol and illicit drugs.¹ According to the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5), a diagnosis of substance use disorder (SUD) is based on evidence of impaired control, social impairment, risky use, and pharmacological criteria.² SUD occurs when an individual chronically uses alcohol or drugs, resulting in significant impairment, such as health problems, disability, and failure to meet major responsibilities at work, school, or home.³ Repeated drug use leads to changes in the brain's structure and function that can make a person more susceptible to developing a substance abuse disorder.⁴ Imaging studies of brains belonging to persons with SUD reveal physical changes in areas of the brain critical to judgment, decision making, learning and memory, and behavior control.⁵

In 2020, approximately 40.3 million people aged 12 or older had a SUD related to corresponding use of alcohol or illicit drugs within the previous year, including 28.3 million people diagnosed with alcohol use disorder (AUD), 18.4 million people diagnosed with drug use disorder, and 6.5 million people diagnosed with both AUD and SUD.⁶ The most common substance abuse disorders in the United States are from the use of alcohol, tobacco, cannabis, opioids, hallucinogens, and stimulants.⁷

The number of drug overdose deaths in the U.S. rose by nearly 29% over a 12-month period ending in April 2021, to an estimated 100,306.⁸ Over 75% of overdose deaths during this period

¹ The World Health Organization, *Mental Health and Substance Abuse*, available at <https://www.who.int/westernpacific/about/how-we-work/programmes/mental-health-and-substance-abuse>; (last visited November 17, 2021); the National Institute on Drug Abuse (NIDA), *The Science of Drug Use and Addiction: The Basics*, available at <https://www.drugabuse.gov/publications/media-guide/science-drug-use-addiction-basics> (last visited November 17, 2021).

² The National Association of Addiction Treatment Providers, *Substance Use Disorder*, available at <https://www.naatp.org/resources/clinical/substance-use-disorder> (last visited November 17, 2021).

³ The Substance Abuse and Mental Health Services Administration (The SAMHSA), *Substance Use Disorders*, <http://www.samhsa.gov/disorders/substance-use> (last visited November 17, 2021).

⁴ The NIDA, *Drugs, Brains, and Behavior: The Science of Addiction*, available at <https://www.drugabuse.gov/publications/drugs-brains-behavior-science-addiction/drug-abuse-addiction> (last visited November 17, 2021).

⁵ *Id.*

⁶ The SAMHSA, *Key Substance Use and Mental Health Indicators in the United States: Results from the 2020 National Survey on Drug Use and Health*, p. 3, available at <https://www.samhsa.gov/data/sites/default/files/reports/rpt35325/NSDUHFFR1PDFWHTMLFiles2020/2020NSDUHFFR1PDW102121.pdf> (last visited November 17, 2021).

⁷ The Rural Health Information Hub, *Defining Substance Abuse and Substance Use Disorders*, available at <https://www.ruralhealthinfo.org/toolkits/substance-abuse/1/definition> (last visited November 17, 2021).

⁸ The Center for Disease Control and Prevention, National Center for Health Statistics, *Vital Statistics Rapid Release: Provisional Drug Overdose Death Counts*, available at <https://www.cdc.gov/nchs/nvss/vsrr/drug-overdose-data.htm> (last visited November 17, 2021).

were attributable to opioids.⁹ Opioid-related deaths increased by 35% over comparative 12-month periods, from approximately 56,064 as of April 2020 to 75,673 in the period ending in April 2021.¹⁰

Substance Abuse Treatment in Florida

In the early 1970s, the federal government enacted laws creating formula grants for states to develop continuums of care for individuals and families affected by substance abuse.¹¹ The laws resulted in separate funding streams and requirements for alcoholism and drug abuse. In response to the laws, the Florida Legislature enacted chs. 396 and 397, F.S., relating to alcohol and drug abuse, respectively.¹² Each of these laws governed different aspects of addiction, and thus had different rules promulgated by the state to fully implement the respective pieces of legislation.¹³ However, because persons with substance abuse issues often do not restrict their misuse to one substance or another, having two separate laws dealing with the prevention and treatment of addiction was cumbersome and did not adequately address Florida's substance abuse problem.¹⁴ In 1993, legislation was adopted to combine chs. 396 and 397, F.S., into a single law, the Hal S. Marchman Alcohol and Other Drug Services Act (Marchman Act).¹⁵

The Marchman Act encourages individuals to seek services on a voluntary basis within the existing financial and space capacities of a service provider.¹⁶ However, denial of addiction is a prevalent symptom of SUD, creating a barrier to timely intervention and effective treatment.¹⁷ As a result, treatment typically must stem from a third party providing the intervention needed for SUD treatment.¹⁸

The DCF administers a statewide system of safety-net services for substance abuse and mental health (SAMH) prevention, treatment, and recovery for children and adults who are otherwise unable to obtain these services. Services are provided based upon state and federally-established priority populations.¹⁹ The DCF provides treatment for SUD through a community-based

⁹ U.S. News and World Report, *CDC Data: Drug Overdose Deaths Top 100k for First Time*, November 17, 2021, available at <https://www.usnews.com/news/health-news/articles/2021-11-17/drug-overdose-deaths-top-100k-over-12-months-for-first-time> (last visited November 17, 2021).

¹⁰ *Id.*

¹¹ The DCF, *Baker Act and Marchman Act Project Team Report for Fiscal Year 2016-2017*, p. 4-5. (on file with the Senate Children, Families, and Elder Affairs Committee).

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Chapter 93-39, s. 2, L.O.F., which codified current ch. 397, F.S.

¹⁶ See s. 397.601(1) and (2), F.S. An individual who wishes to enter treatment may apply to a service provider for voluntary admission. Within the financial and space capabilities of the service provider, the individual must be admitted to treatment when sufficient evidence exists that he or she is impaired by substance abuse and his or her medical and behavioral conditions are not beyond the safe management capabilities of the service provider.

¹⁷ Darran Duchene and Patrick Lane, *Fundamentals of the Marchman Act*, Risk RX, Vol. 6 No. 2 (Apr. – Jun. 2006) State University System of Florida Self-Insurance Programs, available at <http://flbog.sip.ufl.edu/risk-rx-article/fundamentals-of-the-marchman-act/> (last visited November 17, 2021) (hereinafter cited as “Fundamentals of the Marchman Act”).

¹⁸ *Id.*

¹⁹ See chs. 394 and 397, F.S.

provider system offering detoxification, treatment, and recovery support for individuals affected by substance misuse, abuse, or dependence.²⁰

- **Detoxification Services:** Detoxification services use medical and clinical procedures to assist individuals and adults as they withdraw from the physiological and psychological effects of substance abuse.²¹
- **Treatment Services:** Treatment services²² include a wide array of assessment, counseling, case management, and support that are designed to help individuals who have lost their abilities to control their substance use on their own and require formal, structured intervention and support.²³
- **Recovery Support:** Recovery support services, including transitional housing, life skills training, parenting skills, and peer-based individual and group counseling, are offered during and following treatment to further assist individuals in their development of the knowledge and skills necessary to maintain their recovery.²⁴

Licensure of Substance Abuse Service Providers

The DCF regulates substance use disorder treatment by licensing individual treatment components under ch. 397, F.S., and Rule 65D-30, F.A.C. Licensed service components include a continuum of substance abuse prevention,²⁵ intervention,²⁶ and clinical treatment services.²⁷

Clinical treatment is a professionally directed, deliberate, and planned regimen of services and interventions that are designed to reduce or eliminate the misuse of drugs and alcohol and promote a healthy, drug-free lifestyle.²⁸ “Clinical treatment services” include, but are not limited to, the following licensable service components:

- Addictions receiving facility.
- Day or night treatment.
- Day or night treatment with community housing.

²⁰ The DCF, *Treatment for Substance Abuse*, available at <https://www.myflfamilies.com/service-programs/samh/substance-abuse.shtml> (last visited November 17, 2021).

²¹ *Id.*

²² *Id.* Research indicates that persons who successfully complete substance abuse treatment have better post-treatment outcomes related to future abstinence, reduced use, less involvement in the criminal justice system, reduced involvement in the child-protective system, employment, increased earnings, and better health.

²³ *Id.*

²⁴ *Id.*

²⁵ Section 397.311(26)(c), F.S. “Prevention” is defined as “a process involving strategies that are aimed at the individual, family, community, or substance and that preclude, forestall, or impede the development of substance use problems and promote responsible lifestyles”. See also, The DCF, *Substance Abuse: Prevention*, <https://www.myflfamilies.com/service-programs/samh/prevention/index.shtml> (last visited November 17, 2021). Substance abuse prevention is achieved through the use of ongoing strategies such as increasing public awareness and education, community-based processes and evidence-based practices. These prevention programs are focused primarily on youth, and, in recent years, have shifted to the local level, giving individual communities the opportunity to identify their own unique prevention needs and develop action plans in response. This community focus allows prevention strategies to have a greater impact on behavioral change by shifting social, cultural and community environments.

²⁶ Section 397.311(26)(b), F.S. “Intervention” is defined as “structured services directed toward individuals or groups at risk of substance abuse and focused on reducing or impeding those factors associated with the onset or the early stages of substance abuse and related problems.”

²⁷ Section 397.311(26), F.S.

²⁸ Section 397.311(26)(a), F.S.

- Detoxification.
- Intensive inpatient treatment.
- Intensive outpatient treatment.
- Medication-assisted treatment for opiate addiction.
- Outpatient treatment.
- Residential treatment.²⁹

Florida does not license recovery residences; instead, in 2015 the Legislature enacted sections 397.487–397.4872, F.S., which establish voluntary certification programs for recovery residences and recovery residence administrators, implemented by private credentialing entities.³⁰

Application for Licensure

Individuals applying for licensure as substance abuse service providers must submit applications on specified forms provided, and in accordance with rules adopted, by the DCF.³¹ Applications must include, at a minimum:

- Information establishing the name and address of the applicant service provider and its director, and also of each member, owner, officer, and shareholder, if any.
- Information establishing the competency and ability of the applicant service provider and its director to carry out the requirements of ch. 397, F.S.
- Proof satisfactory to the DCF of the applicant service provider’s financial ability and organizational capability to operate in accordance with ch. 397, F.S.
- Proof of liability insurance coverage in amounts set by the DCF by rule.
- Sufficient information to conduct background screening for all owners, directors, chief financial officers, and clinical supervisors as provided in s. 397.4073, F.S.
- Proof of satisfactory fire, safety, and health inspections, and compliance with local zoning ordinances. Service providers operating under a regular annual license shall have 18 months from the expiration date of their regular license within which to meet local zoning requirements. Applicants for a new license must demonstrate proof of compliance with zoning requirements prior to the department issuing a probationary license.
- A comprehensive outline of the proposed services, including sufficient detail to evaluate compliance with clinical and treatment best practices, for:
 - Any new applicant; or
 - Any licensed service provider adding a new licensable service component.
- Proof of the ability to provide services in accordance with the DCF rules.
- Any other information that the DCF finds necessary to determine the applicant’s ability to carry out its duties under this chapter and applicable rules.³²

Adverse Action - Applicant or Licensee

Section 397.401, F.S., prohibits any person or agency from acting as a substance abuse service provider unless the person or agency is licensed or exempt from licensure. Based on a licensure

²⁹ *Id.*

³⁰ Chapter 2015-100, L.O.F.

³¹ Section 397.403(1), F.S.

³² *Id.*

inspection or resulting from a complaint, a provider may be cited for violations of licensure standards and a fine may be imposed. Fines are levied based on the severity and prevalence of the violation and range in amounts per day, per violation, up to a maximum of \$500.³³

Provider Licensure and Designations System

The Provider Licensure and Designations System (PLADS) is a web-based portal operated and maintained by the DCF that allows substance abuse service providers to electronically register and apply for substance abuse license components. PLADS serves as a central location where providers can manage all documentation legally required for obtaining licensure to provide state regulated services. PLADS also allows providers to check their licensure status, track inspections, and respond to corrective action plans.³⁴

Launched on August 14, 2017, PLADS automates the licensure process by allowing providers to submit online applications and receive notifications.³⁵ PLADS allows licensure staff to facilitate workflow movement of documents, store electronic files, and search for reports.³⁶ PLADS also serves as a web-based platform for members of the public to submit complaints regarding individual service providers to the DCF.³⁷ The DCF also uses PLADS as a tool to record legal violations committed by service providers, and to communicate violations discovered during inspections or follow-ups to corrective action plans to service providers.³⁸

Recovery Residences

Recovery residences (also known as “sober homes” or “sober living homes”) are alcohol- and drug-free living environments for individuals in recovery who are attempting to maintain abstinence from alcohol and drugs.³⁹ These residences offer no formal treatment and are, in some cases, self-funded through resident fees.⁴⁰

A recovery residence is defined as “a residential dwelling unit, the community housing component of a licensed day or night treatment facility with community housing, or other form of group housing, which is offered or advertised through any means, including oral, written,

³³ Section 397.415(1)(a), F.S.

³⁴ The DCF, *Licensure and Regulation*, available at <https://www.myflfamilies.com/service-programs/samh/licensure-regulation/> (last visited November 17, 2021).

³⁵ The DCF, *Long Range Program Plan, Fiscal Years 2018-2019 and 2022-2023*, September 30, 2017, p. 47, available at <http://floridafiscalportal.state.fl.us/Document.aspx?ID=17084&DocType=PDF> (last visited November 17, 2021).

³⁶ *Id.*

³⁷ The DCF Complaint Portal, available at <https://dcfplads.visualvault.com/Public/FLDCF/SAMH/formviewer?formid=665e4dc9-af73-e711-a962-dd47132d4eaa&xcdid=68226190-f21a-e711-8131-0e42c1d38fef&xcid=fb18edf0-c070-e711-950c-48e244f6f348> (last visited November 17, 2021).

³⁸ The DCF, *August 31, 2020 Memorandum: Clarification on Issuing License Fines*, p. 26 available at http://www.sa15.state.fl.us/stateattorney/SoberHomes/_content/attachments/9-16-20Meeting.pdf (last visited November 17, 2021).

³⁹ The SAMSHA, *Recovery Housing: Best Practices and Suggested Guidelines*, p. 2, available at <https://www.samhsa.gov/sites/default/files/housing-best-practices-100819.pdf> (last visited November 17, 2021).

⁴⁰ However, these homes may mandate or strongly encourage attendance at 12-step groups. The Society for Community Research and Action, *Statement on Recovery Residences: The Role of Recovery Residences in Promoting Long-term Addiction Recovery*, available at <https://www.scra27.org/what-we-do/policy/policy-position-statements/statement-recovery-residences-addiction/> (last visited November 17, 2021).

electronic, or printed means, by any person or entity as a residence that provides a peer-supported, alcohol-free, and drug-free living environment.”⁴¹

Voluntary Certification of Recovery Residences and Administrators in Florida

Florida utilizes voluntary certification programs for recovery residences and recovery residence administrators, implemented by private credentialing entities.⁴² Under the voluntary certification program, the DCF has approved two credentialing entities to design the certification programs and issue certificates: the Florida Association of Recovery Residences certifies the recovery residences and the Florida Certification Board (the FCB) certifies recovery residence administrators.⁴³

Certified Recovery Residence Administrators

Certified recovery residence administrators (CRRAs) are individuals responsible for the overall management of a recovery residence, as well as the supervision of residents and paid or volunteer staff.⁴⁴ Prior to obtaining certification, CRRAs must successfully undergo a level 2 background screening pursuant to ch. 435, F.S.⁴⁵ Additionally, the FCB currently requires CRRAs to:

- Hold at least a high school diploma, GED, or equivalent;
- Undergo 10 hours of on-the-job supervision of the applicant’s performance of related recovery residence administrator, manager, or residential management services within a recovery residence setting;
- Obtain three professional letters of recommendation;
- Pass an exam administered by the FCB;
- Complete 10 hours of continuing education annually; and
- Apply for certification renewal annually.⁴⁶

CRRAs are prohibited from engaging in any of the following activities:

- Failing to adhere to continuing education requirements of the credentialing entity;⁴⁷
- Providing false or misleading information to the credentialing entity at any time;⁴⁸
- Advertising himself or herself to the public as a “certified recovery residence administrator” without first obtaining certification;⁴⁹ and

⁴¹ Section 397.311(38), F.S.

⁴² Sections 397.487–397.4872, F.S.

⁴³ The DCF, *Recovery Residence Administrators and Recovery Residences*, available at <https://www.myflfamilies.com/service-programs/samh/recovery-residence/> (last visited November 17, 2021).

⁴⁴ The Florida Certification Board (The FCB), *Certified Recovery Residence Administrator (CRRAs)*, available at <https://flcertificationboard.org/certifications/certified-recovery-residence-administrator/> (last visited November 17, 2021).

⁴⁵ Section 397.4871(5), F.S.

⁴⁶ The FCB, *Certification Guidelines: Credential Standards and Requirements Table: Certified Recovery Residence Administrator (CRRAs)*, p. 4-5, available at <https://flcertificationboard.org/wp-content/uploads/CRRAs-Standards-and-Requirements-Tables-January-2020.pdf> (last visited November 17, 2021).

⁴⁷ Section 397.4871(6)(a), F.S. CRRAs who violate this provision are subject to revocation of certification at the discretion of the credentialing entity.

⁴⁸ Section 397.4871(6)(c), F.S. CRRAs who violate this provision are subject to mandatory revocation of certification.

⁴⁹ Section 397.4871(7), F.S. CRRAs who violate this provision commit a first degree misdemeanor, punishable as provided in section 775.082, F.S. or section 775.083, F.S.

- Actively managing more than three recovery residences at any given time.⁵⁰

Patient Referrals

While certification is voluntary, Florida law incentivizes certification. Since 2016, Florida has prohibited licensed substance abuse service providers from referring patients to a recovery residence unless the recovery residence holds a valid certificate of compliance and is actively managed by a CRRA.⁵¹ There are certain exceptions that allow referrals to or from uncertified recovery residences, including:

- A licensed service provider under contract with a behavioral health managing entity.
- Referrals by a recovery residence to a licensed service provider when the recovery residence or its owners, directors, operators, or employees do not benefit, directly or indirectly, from the referral.
- Referrals made before July 1, 2018, by a licensed service provider to that licensed service provider's wholly owned subsidiary.
- Referrals to, or accepted referrals from, a recovery residence with no direct or indirect financial or other referral relationship with the licensed service provider, and that is democratically operated by its residents pursuant to a charter from an entity recognized or sanctioned by Congress, and where the residence or any resident of the residence does not receive a benefit, directly or indirectly, for the referral.⁵²

The DCF publishes a list of all certified recovery residences and recovery residence administrators on its website.⁵³ As of November 15, 2021, there were 449 certified recovery residences in Florida.⁵⁴

Privacy Rights of Individuals Receiving Substance Abuse Treatment

Section 397.501, F.S., establishes statutory rights for individuals receiving substance abuse services, including the right to dignity, non-discriminatory services, quality services, confidentiality, counsel, and habeas corpus. In particular, s. 397.501(5), F.S., entitles an individual to the right to possess clothing and other personal effects. Service providers are permitted to take only temporary custody of an individual's personal effects, and may do so only when medically necessary or for safety reasons. Providers must document both the reason for taking custody and a list of personal effects taken in the patient's clinical record.⁵⁵ Service providers who violate these rights are liable for damages, unless acting in good faith, reasonably, and without negligence.⁵⁶

⁵⁰ Section 397.4871(8), F.S.

⁵¹ Section 397.4873(1), F.S.

⁵² Section 397.4873(2)(a)-(d), F.S.

⁵³ Section 397.4872(2), F.S.

⁵⁴ The Florida Association of Recovery Residences, *Certified Recovery Residences established by s. 397.487, F.S.*, available at <https://www.myflfamilies.com/service-programs/samh/recovery-residence/docs/FARR%20Certified%20Recovery%20Residences.pdf> (last visited November 17, 2021).

⁵⁵ Section 397.501(5), F.S.

⁵⁶ Section 397.501(10), F.S.

III. Effect of Proposed Changes:

The bill amends s. 397.403, F.S., relating to license application of substance abuse service providers, requiring applicants for licensure to include the names and locations of any recovery residences to which the applicant plans to refer patients or from which the applicant plans to accept patients.

The bill creates s. 397.4104, F.S., requiring providers to record the names and locations of any recovery residences to which the applicant has referred patients, or from which the applicant has accepted patients, in the DCF's PLADS by July 1, 2022. Providers are required to update PLADS with the names and locations of any new recovery residences to which patients have been referred, or from which patients have been received, within 30 business days of referring or receiving patients.

Beginning July 1, 2022, a provider that fails to create an appropriate record in PLADS, or fails to appropriately update such a record upon the referral or receipt of patients from a previously unrecorded recovery residence, is subject to an administrative fine of \$1,000. The bill allows the DCF to suspend or revoke a provider's license in accordance with s. 397.415, F.S., if the provider repeatedly violates this provision.

The bill amends s. 397.4871, F.S., related to recovery residence administrator certification, requiring CCRA's to demonstrate the ability to:

- Effectively and appropriately respond to the needs of residents;
- Maintain residence standards; and
- Meet the certification requirements of s. 397.4871, F.S.

Under the bill, a CCRA who demonstrates such ability is permitted to actively manage more than 50 residents at once only if the:

- CCRA provides written justification to the appropriate credentialing entity; and
- Credentialing entity approves the request.

The bill prohibits CCRA's from managing more than 100 residents under any circumstances.

The bill also requires service providers to return any personal effects taken from an individual to that individual upon discharge even if the discharge is against medical advice.

The bill is effective upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

There may be an indeterminate negative fiscal impact to licensed substance abuse service providers, as these providers will be subject to administrative fines of up to \$1,000 for failing to properly record recovery residences used for patient referrals in the PLADS system.

C. Government Sector Impact:

There may be an indeterminate negative fiscal impact to the DCF due to the need to update the PLADS system to allow for recording of recovery residences used for patient referrals.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 397.403, 397.4871, and 397.501 of the Florida Statutes.

This bill creates section 397.4104 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.



202734

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
01/26/2022	.	
	.	
	.	
	.	

The Committee on Rules (Harrell) recommended the following:

Senate Amendment (with title amendment)

1
2
3 Before line 27
4 insert:

5 Section 1. Subsection (7) of section 394.76, Florida
6 Statutes, is amended to read:

7 394.76 Financing of district programs and services.—If the
8 local match funding level is not provided in the General
9 Appropriations Act or the substantive bill implementing the
10 General Appropriations Act, such funding level shall be provided
11 as follows:



12 (7) The expenditures which are subject to state payment
13 include expenditures that are approved in the district plan for:
14 salaries of personnel; approved facilities and services provided
15 through contract; operation, maintenance, and service cost;
16 contingency management programs in which participants are
17 provided noncash incentives for positive progress in their
18 recovery; depreciation of facilities; and such other
19 expenditures as may be approved by the district administrator.
20 Such expenditures do not include expenditures for compensation
21 to members of a community agency board, except the actual and
22 necessary expenses incurred in the performance of official
23 duties, or expenditures for a purpose for which state payment is
24 claimed under any other provision of law.

25
26 ===== T I T L E A M E N D M E N T =====

27 And the title is amended as follows:

28 Between lines 2 and 3

29 insert:

30 amending s. 394.76, F.S.; revising the types of
31 expenditures for district programs and services that
32 are eligible for state payment;

By Senator Harrell

25-00437A-22

2022704__

A bill to be entitled

An act relating to substance abuse service providers; amending s. 397.403, F.S.; requiring service provider applicants to include the names and locations of certain recovery residences in their license application; creating s. 397.4104, F.S.; requiring service providers to record specified information in the Department of Children and Families' Provider Licensure and Designations System after a specified date; requiring service providers to update the record with any changes within a specified timeframe; providing civil penalties; amending s. 397.4871, F.S.; requiring certified recovery residence administrators to demonstrate the ability to meet specified requirements; prohibiting certified recovery residence administrators from actively managing more than a specified number of residents; providing an exception; deleting a provision prohibiting certified recovery residence administrators from actively managing more than three recovery residences; amending s. 397.501, F.S.; requiring service providers to return an individual's personal effects upon the individual's discharge; providing an effective date.

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

Section 1. Paragraph (j) is added to subsection (1) of section 397.403, Florida Statutes, to read:
397.403 License application.-

Page 1 of 3

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

25-00437A-22

2022704__

(1) Applicants for a license under this chapter must apply to the department on forms provided by the department and in accordance with rules adopted by the department. Applications must include at a minimum:

(j) The names and locations of any recovery residences to which the applicant service provider plans to refer patients or from which the applicant service provider plans to accept patients.

Section 2. Section 397.4104, Florida Statutes, is created to read:

397.4104 Record of recovery residences used by service providers.-

(1) By July 1, 2022, a service provider shall record in the department's Provider Licensure and Designations System the name and location of each recovery residence that the service provider has referred patients to or received patients from and update the record with any changes that occur. A service provider must update such record within 30 business days after the change.

(2) Beginning July 1, 2022, a licensed service provider that violates this section is subject to an administrative fine of \$1,000 per occurrence. The department may suspend or revoke a service provider's license pursuant to s. 397.415 for repeat violations of this section.

Section 3. Subsection (8) of section 397.4871, Florida Statutes, is amended to read:

397.4871 Recovery residence administrator certification.-

(8)(a) A certified recovery residence administrator must demonstrate the ability to effectively and appropriately respond

Page 2 of 3

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

25-00437A-22

2022704

59 to the needs of residents, to maintain residence standards, and
60 to meet the certification requirements of this section.

61 (b) A certified recovery residence administrator may not
62 actively manage more than 50 residents at any given time unless
63 written justification is provided to, and approved by, the
64 credentialing entity as to how the administrator is able to
65 effectively and appropriately respond to the needs of the
66 residents, to maintain residence standards, and to meet the
67 residence certification requirements of this section. However, a
68 certified recovery residence administrator may not actively
69 manage more than 100 residents ~~no more than three recovery~~
70 residences at any given time.

71 Section 4. Subsection (5) of section 397.501, Florida
72 Statutes, is amended to read:

73 397.501 Rights of individuals.—Individuals receiving
74 substance abuse services from any service provider are
75 guaranteed protection of the rights specified in this section,
76 unless otherwise expressly provided, and service providers must
77 ensure the protection of such rights.

78 (5) RIGHT TO CARE AND CUSTODY OF PERSONAL EFFECTS.—An
79 individual has the right to possess clothing and other personal
80 effects. The service provider may take temporary custody of the
81 individual's personal effects only when required for medical or
82 safety reasons, with the reason for taking custody and a list of
83 the personal effects recorded in the individual's clinical
84 record. A service provider shall return an individual's personal
85 effects upon the individual's discharge, even if the discharge
86 is against medical advice.

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Transportation, *Chair*
Military and Veterans Affairs, Space,
and Domestic Security, *Vice Chair*
Appropriations Subcommittee on Health and
Human Services
Children, Families, and Elder Affairs
Finance and Tax

SELECT COMMITTEE:

Select Committee on Pandemic
Preparedness and Response

SENATOR GAYLE HARRELL

25th District

January 19, 2022

Senator Kathleen Passidomo
400 Senate Building
404 South Monroe Street
Tallahassee, FL 32399

Chair Passidomo,

I respectfully request that **SB 704 – Substance Abuse Service Providers** be placed on the next available agenda for the Rules Committee Meeting.

Should you have any questions or concerns, please feel free to contact my office. Thank you in advance for your consideration.

Thank you,

A handwritten signature in cursive script that reads "Gayle".

Senator Gayle Harrell
Senate District 25

Cc: John Phelps, Staff Director
Cynthia Futch, Committee Administrative Assistant

REPLY TO:

- 215 SW Federal Highway, Suite 203, Stuart, Florida 34994 (772) 221-4019 FAX: (888) 263-7895
- 310 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5025

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

SB 704 – Substance Abuse Service Providers (Sober Homes)

Having been on the mission to regulate, to the ability that we can, Sober Homes for the past 8 years, this is one more step to regulate the industry with recommendations from the Sober Homes Task Force.

SB704 attempts to:

- Require applicants for treatment licenses to list the names and locations of any recovery residences with which they plan to refer or accept referrals of patients.**
- Require current service providers to record and update the names of recovery residences that they utilize into the department's database within 30 days after the relationship begins. Violations of this section are subject to an administrative fine of \$1,000 per occurrence.**
- Requiring a certified recovery residence administrator to demonstrate the ability to effectively respond to the needs of the residents, maintain residence standards and meet certification requirements. It also limits the number of residents that the administrator may manage to 50.**
- Require a service provider to return an individual's personal effects upon discharge, even if the discharge is against medical advice. Numerous complaints have been received by the Sober Homes Task Force and citizen groups that providers have withheld wallets, phones and identification from patients, in an effort to prevent their leaving the facility.**

412 R

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to Senate professional staff conducting the meeting

1/27/22

Meeting Date

704

Bill Number or Topic

Rules

Committee

Amendment Barcode (if applicable)

Name

Ed Chase

Phone

561 355 6266

Address

301 N. Olive Ave

Email

echase@pb.gov.org

Street

West Palm Beach

FL

33401

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Palm Beach County

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/SB 754

INTRODUCER: Transportation Committee and Senator Gainer

SUBJECT: Mobile Home Registration Periods

DATE: January 25, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Proctor	Vickers	TR	Fav/CS
2.	Hunter	Ryon	CA	Favorable
3.	Proctor	Phelps	RC	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 754 provides that the registration of a mobile home owned by a natural person begins the first day of the birth month of the owner and ends the last day of the month immediately preceding the owner's birth month in the succeeding year. If the mobile home is registered in the name of more than one person, the birth month of the person whose name first appears on the registration will be used to determine the registration period.

The bill requires the Department of Highway Safety and Motor Vehicles (DHSMV) to prorate mobile home registration renewal fees to give customers the option to renew their registrations on their dates of birth in 2024 or 2025.

For a mobile home not owned by a natural person, the registration period would continue to be January 1 and end December 31.

The Revenue Estimating Conference estimates that the bill has no fiscal impact.

The bill has an effective date of September 1, 2023.

II. Present Situation:

Mobile Home Registration

Chapter 320, F.S., provides for the rules, procedures, and regulations governing the issuance and enforcement of motor vehicle and mobile home licenses. Under this chapter the term “mobile home” means a structure, transportable in one or more sections, which is 8 body feet or more in width and which is built on an integral chassis and designed to be used as a dwelling when connected to the required utilities and includes the plumbing, heating, air-conditioning, and electrical systems contained therein.¹ The term “registration period” means a period of 12 months or 24 months during which a motor vehicle or mobile home registration is valid.²

A mobile home, including those owned by non-residents, are subject to Florida registration and an annual license tax.³ A mobile home, regardless of its actual use, is subject to a license tax unless classified and taxed as real property. It is considered real property only when the owner of the mobile home is also the owner of the land on which the mobile home is situated and the mobile home is permanently affixed on the land. Any prefabricated or modular housing unit or portion of a prefabricated or modular housing unit not manufactured on an integral chassis or undercarriage for travel over the highways must be taxed as real property once it is permanently affixed to real property. This does not apply to a display home or other inventory being held for sale by a manufacturer or dealer of modular housing units.⁴

A mobile home in Florida must be registered with a current decal affixed to it at all times, even when unoccupied. The registration fee for a mobile home is based on its physical length:

- A mobile home not exceeding 35 feet in length: \$20 flat;
- A mobile home over 35 feet in length, but not exceeding 40 feet: \$25 flat;
- A mobile home over 40 feet in length, but not exceeding 45 feet: \$30 flat;
- A mobile home over 45 feet in length, but not exceeding 50 feet: \$35 flat;
- A mobile home over 50 feet in length, but not exceeding 55 feet: \$40 flat;
- A mobile home over 55 feet in length, but not exceeding 60 feet: \$45 flat;
- A mobile home over 60 feet in length, but not exceeding 65 feet: \$50 flat; and
- A mobile home over 65 feet in length: \$80 flat.⁵

Single, double, and triple-wide or additional mobile home units require a separate registration and decal for each unit.⁶

As of September 2021, there were 1,089,276 active mobile homes registered in Florida (includes those who may have both one and two year registrations). During FY 2020-2021, the DHSMV

¹ Section 320.01(2)(a), F.S.

² Section 320.01(19)(a), F.S.

³ Section 320.08(11), F.S.

⁴ Section 320.015(1), F.S.

⁵ *Supra* FN 3.

⁶ Section 320.0815(2), F.S.

processed 312,224 mobile home registration renewal transactions. Of this amount, 73,979 were registered to a business. Additionally, 600,000 mobile homes were registered as real property.⁷

Registration Renewal

Motor vehicle and mobile home registrations must be renewed semiannually, annually, or biennially during the applicable renewal period upon payment of the applicable license tax amounts, service charges, and any additional fees required by law.⁸ The specific registration and renewal periods for vehicles subject to registration are specified by statute.⁹ Chapter 320, F.S., provides that the registration and renewal period for a motor vehicle begins the first day of the birth month of the owner and ends the last day of the month immediately preceding the owner's birth month in the succeeding year. If such vehicle is registered in the name of more than one person, the birth month of the person whose name first appears on the registration shall be used to determine the registration period. For a vehicle subject to this registration period, the renewal period is the 30-day period ending at midnight on the vehicle owner's date of birth.¹⁰ However, as mobile homes are not included in the definition of "motor vehicle" but rather are subject to registration under s. 320.08(11), F.S., the registration and renewal period differs from that of motor vehicles.

Currently, Florida law requires mobile home registrations be renewed annually or biennially, the registration period begins January 1 and ends December 31. For a vehicle subject to this registration period, the renewal period is the 31-day period prior to expiration.¹¹ However, if the owner of the mobile home is a natural person, the registration expires at midnight on the owner's birthday.¹²

Additionally, mobile homes are eligible for an extended registration period of 24 months.¹³ Owners of certain specified motor vehicles or mobile homes may renew the vehicle registration biennially during the applicable renewal period upon payment of the two-year cumulative total of all applicable license tax amounts, service charges or surcharges, and payment of the two-year cumulative total of any additional fees required by law for an annual registration.¹⁴

Failure to renew a mobile home registration may be subject to the following penalty provisions:

- Any person whose motor vehicle or mobile home registration has been expired for a period of 6 months or less commits a noncriminal traffic infraction, punishable as a nonmoving violation as provided in Chapter 318. However, a law enforcement officer may not issue a citation for a violation under this paragraph until midnight on the last day of the owner's birth month of the year the registration expires.¹⁵

⁷ Email from Kevin Jacobs, Legislative Affairs Director, Department of Highway Safety and Motor Vehicles, (November 23, 2021) (on file with the Senate Committee on Transportation).

⁸ Section 320.07(2), F.S.

⁹ Section 320.055, F.S.

¹⁰ Section 320.055(1)(a), F.S.

¹¹ Section 320.055(2), F.S.

¹² Section 320.07(1), F.S.

¹³ Sections 320.055(1)(b) and 320.01(19)(b), F.S.

¹⁴ Section 320.07(2)(b), F.S.

¹⁵ Section 320.07(3)(a), F.S.

- Any person whose motor vehicle or mobile home registration has been expired for more than 6 months, upon a first offense, is subject to the penalty in s. 318.14, F.S.¹⁶
- Any person whose motor vehicle or mobile home registration has been expired for more than 6 months, upon a second or subsequent offense, commits a misdemeanor of the second degree, punishable as provided in ss. 775.082 or 775.083, F.S.¹⁷

According to s. 320.055, F.S., the registration period for mobile homes begins January 1 and ends December 31. However, s. 320.07, F.S., provides that if the owner of the mobile home is a natural person the registration expires at midnight on the owner's birthday.

Distribution of Taxes for Mobile Homes

A surcharge in the amount of \$1 is collected in the same manner as the license tax. This surcharge may not be imposed during the next registration and renewal period if the balance in the Florida Mobile Home Relocation Trust Fund exceeds \$10 million on June 30. The surcharge must be reinstated in the next registration and renewal period if the balance in the Florida Mobile Home Relocation Trust Fund is below \$6 million on June 30. Any mobile home that is not located in a mobile home park regulated under ch. 723, F.S., is exempt from the surcharge.¹⁸

The annual mobile home license tax may be collected by the tax collectors. Each tax collector must make prompt remittance of all moneys collected to the DHSMV. Upon receipt of the license taxes collected from the tax collectors, the DHSMV must deposit in the General Revenue Fund the sum of \$1.50 on each such sticker issued, and must deposit in the Florida Mobile Home Relocation Trust Fund \$1 on each sticker issued as provided in s. 320.08015, F.S. The balance remaining must be paid into the License Tax Collection Trust Fund, and the funds deposited must be paid to the respective counties and cities where the mobile home the license tax applies to is located, regardless of where the license taxes are collected.¹⁹

The DHSMV must keep records showing the total number of stickers issued to each type of mobile home, the total amount of license taxes collected, and the county or municipality where each mobile home is located and must from month to month certify to the Chief Financial Officer the amount derived from license taxes in each county and each municipality within the county. The funds remaining after the \$1.50 collected on each license and the \$1 license tax surcharge imposed by s. 320.08015, F.S., must be paid to the counties and municipalities within the counties where the mobile home(s) is located as follows: one-half to the district school board and the remainder to the board of county commissioners, for a mobile home that is located within the unincorporated areas of the county, or to any municipality within such county, for a mobile home that is located within its corporate limits. Payment must be by warrant drawn monthly by the Chief Financial Officer upon the treasury out of the License Tax Collection Trust Fund.²⁰

¹⁶ Section 320.07(3)(b), F.S.

¹⁷ Section 320.07(3)(c), F.S.

¹⁸ Section 320.08015, F.S.

¹⁹ Section 320.081(4), F.S.

²⁰ Section 320.081(5), F.S.

The current registration period for mobile homes begins January 1 and ends December 31. This results in the distribution of taxes occurring once per year in December to trust funds, General Revenue, school boards, and local governments.

III. Effect of Proposed Changes:

The bill amends s. 320.055, F.S., to provide that the registration of a mobile home owned by a natural person begins the first day of the birth month of the owner and ends the last day of the month immediately preceding the owner's birth month in the succeeding year. If the mobile home is registered in the name of more than one person, the birth month of the person whose name first appears on the registration will be used to determine the registration period. The renewal period for the registration will be the 30-day period ending at midnight on the vehicle owner's date of birth.

The bill requires the DHSMV to prorate mobile home registration renewal fees to give customers the option to renew their registrations on their dates of birth in 2024 or 2025. Customers whose dates of birth occur in the months of January through June may choose to renew for 1 to 18 months. Customers whose dates of birth occur in the months of July through December may choose to renew for 7 to 24 months.

The change in registration period for mobile homes to the owner's birth month may result in the distribution of taxes occurring monthly instead of once per year in December to trust funds, General Revenue, school boards, and local governments.

For a mobile home not owned by a natural person, the registration period would begin January 1 and end December 31, with a renewal period for the registration of 31-days before expiration.

The bill has an effective date of September 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The Revenue Estimating Conference estimates that the bill has no fiscal impact. Beginning September 1, 2023, mobile home registrants will have the option to renew their registrations on their birth dates. Registrants whose birth dates occur in the months of January through June may choose to renew for 1 to 18 months, and customers whose birth dates occur in the months of July through December may choose to renew for 7 to 24 months. This may result in some registrants paying more to move their registration to their birth month if they choose to not renew for the shorter period, but no one would pay more than they normally would in a two year period.

C. Government Sector Impact:

The Revenue Estimating Conference estimates that the bill has no fiscal impact; however, counties and cities who receive monies from the base tax of mobile homes may have a negative impact in the state FY 2023-2024, may have a positive impact in FY 2024-2025, and may level out past FY 2024-25. Most counties are based on the federal fiscal year, which runs from October 1 to September 30. Currently, the base tax for mobile homes is paid in December of each year.²¹

The Revenue Estimating Conference estimates that the bill has no fiscal impact; however, the General Revenue Fund may experience a negative revenue impact in FY 2023-2024, a positive revenue impact in FY 2024-2025, and a return to previous year averages in the following years. This may be a net zero impact that spans over two years.²²

The change in registration period for a mobile home to the owner's birth month may result in the distribution of taxes occurring monthly instead of once per year in December to trust funds, General Revenue, school boards, and local governments.

According to DHSMV, the bill may have an indeterminate negative fiscal impact to the DHSMV for programming various computer systems to convert mobile home registration renewals from the month of December to the registrant's birth month.²³

²¹ Florida Department of Highway Safety and Motor Vehicles, *2022 Agency Legislative Bill Analysis of Senate Bill 754*, (November 29, 2021).

²² *Ibid.*

²³ *Ibid.*

The DHSMV and tax collector offices will see a reduced workload in December due to the change for natural persons to register mobile homes during their birth months. Revenue that otherwise would be anticipated to be received in December from renewals would instead be received throughout the fiscal year.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following section of the Florida Statutes: 320.055

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Transportation on December 1, 2021:

Amends the effective date to September 1, 2023, and requires the DHSMV to prorate mobile home registration renewal fees to give customers the option to renew their registrations on their dates of birth in 2024 or 2025. Customers whose dates of birth occur in the months of January through June may choose to renew for 1 to 18 months. Customers whose dates of birth occur in the months of July through December may choose to renew for 7 to 24 months.

B. Amendments:

None.

By the Committee on Transportation; and Senator Gainer

596-01392-22

2022754c1

A bill to be entitled

An act relating to mobile home registration periods; amending s. 320.055, F.S.; revising the registration and registration renewal periods for a mobile home owned by a natural person; requiring the Department of Highway Safety and Motor Vehicles, beginning on a specified date, to give customers the option to renew their registrations on their dates of birth in certain years; specifying permissible renewal periods for such renewals; providing an effective date.

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

Section 1. Paragraph (a) of subsection (1) and subsection (2) of section 320.055, Florida Statutes, are amended to read:

320.055 Registration periods; renewal periods.—The following registration periods and renewal periods are established:

(1) (a) For a motor vehicle subject to registration under s. 320.08(1), (2), (3), (4) (a) or (b), (5) (b), (c), (d), or (f), (6) (a), (7), (8), (9), ~~or (10)~~, or (11) and owned by a natural person, the registration period begins the first day of the birth month of the owner and ends the last day of the month immediately preceding the owner's birth month in the succeeding year. If such vehicle is registered in the name of more than one person, the birth month of the person whose name first appears on the registration shall be used to determine the registration period. For a vehicle subject to this registration period, the renewal period is the 30-day period ending at midnight on the

Page 1 of 2

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

596-01392-22

2022754c1

vehicle owner's date of birth.

(2) For a vehicle subject to registration under s. 320.08(11) and not owned by a natural person, the registration period begins January 1 and ends December 31. For a vehicle subject to this registration period, the renewal period is the 31-day period before ~~prior to~~ expiration.

Section 2. Beginning September 1, 2023, in order to implement the amendment made by this act to s. 320.055, Florida Statutes, the Department of Highway Safety and Motor Vehicles shall give customers the option to renew their registrations on their dates of birth in 2024 or 2025. Customers whose dates of birth occur in the months of January through June may choose to renew for 1 to 18 months. Customers whose dates of birth occur in the months of July through December may choose to renew for 7 to 24 months.

Section 3. This act shall take effect September 1, 2023.

Page 2 of 2

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on
Transportation,
Tourism, and Economic Development,
Chair
Appropriations
Appropriations Subcommittee on Criminal
and Civil Justice
Criminal Justice
Ethics and Elections
Transportation

SENATOR GEORGE B. GAINER
2nd District

January 24, 2022

Re: SB 754

Dear Chair Passidomo,

I am respectfully requesting Senate Bill 754, related to Mobile Home Registration, be placed on the agenda for the next meeting of the Committee on Rules.

SB 754 provides that the registration of a mobile home owned by a natural person begins the first day of the birth month of the owner and ends the last day of the month immediately preceding the owner's birth month in the succeeding year. SB 754 creates consistency so that mobile home owners may register their mobile home at the same time as all their other vehicles. This is much more efficient so mobile home owners may handle all of their registration needs during their birth month, rather than having to deal with two separate renewal periods. SB 754 creates efficiencies in government operation by allowing mobile home owners to handle these transactions at one time instead of making multiple office visits.

SB 754 has no impact to general revenue and is not a fee increase.

I appreciate your consideration of this bill. If there are any questions or concerns, please do not hesitate to call my office at (850) 487-5002.

Thank you,

A handwritten signature in cursive script, appearing to read "George B. Gainer".

Senator George Gainer
District 2

REPLY TO:

- 840 West 11th Street, Panama City, Florida 32401 (850) 747-5454
- Northwest Florida State College, 100 East College Boulevard, Building 330, Rooms 105 and 112, Niceville, Florida 32578 (850) 747-5454
- 408 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5002

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Subcommittee on
Transportation,
Tourism, and Economic Development,
Chair
Appropriations
Appropriations Subcommittee on Criminal
and Civil Justice
Criminal Justice
Ethics and Elections
Transportation

SENATOR GEORGE B. GAINER
2nd District

January 25, 2022

Re: SB 754

Dear Chair Passidomo,

I am respectfully requesting Senator Hutson be allowed to present Senate Bill 754, related to Mobile Home Registration, which is on the agenda for the Rules meeting on Thursday, January 27th.

I appreciate your consideration of this bill. If there are any questions or concerns, please do not hesitate to call my office at (850) 487-5002.

Thank you,

A handwritten signature in blue ink that reads "George B. Gainer".

Senator George Gainer
District 2

REPLY TO:

- 840 West 11th Street, Panama City, Florida 32401 (850) 747-5454
- Northwest Florida State College, 100 East College Boulevard, Building 330, Rooms 105 and 112, Niceville,
- 408 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5002

Florida 32578 (850) 747-5454

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

The Florida Senate

APPEARANCE RECORD

01.27.2022

Meeting Date

SB754

Bill Number or Topic

Rules

Committee

Deliver both copies of this form to Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name Rhonda Skipper, President
Florida Tax Collectors Association

Phone 850.222.7200

Address 216 S. Monroe Street
Street

Email

Tallahassee FL 32301
City State Zip

Speaking: For Against Information OR Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

Florida Tax Collectors Association

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

SB 754

01.27.2022

Meeting Date

Bill Number or Topic

Rules

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Committee

Amendment Barcode (if applicable)

Name Tim Qualls, General Counsel Phone 850.222.7206

Address Florida Tax Collectors Association 216 S. Monroe Street Email tqualls@yvlaw.net

Street

Tallahassee FL 32301

City

State

Zip

Speaking: [] For [] Against [] Information OR Waive Speaking: [x] In Support [] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[] I am appearing without compensation or sponsorship.

[x] I am a registered lobbyist, representing:

Florida Tax Collectors Association

[] I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

SB754

01.27.2022

Meeting Date

Bill Number or Topic

Rules

Deliver both copies of this form to Senate professional staff conducting the meeting

Committee

Amendment Barcode (if applicable)

Name Sylvia Talevich, Executive Director Phone 850.222.7206

Address Florida Tax Collectors Association 214 S. Monroe Street Email srtalevich@yrlaw.net

Tallahassee FL 32301

Speaking: [] For [] Against [] Information OR Waive Speaking: [x] In Support [] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[x] I am appearing without compensation or sponsorship.

Florida Tax Collectors Association

[] I am a registered lobbyist, representing:

[] I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL: SM 826

INTRODUCER: Senator Wright

SUBJECT: Florida National Guard

DATE: January 25, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brown</u>	<u>Caldwell</u>	<u>MS</u>	Favorable
2.	<u>Brown</u>	<u>Phelps</u>	<u>RC</u>	Favorable

I. Summary:

SM 826 is a memorial to the Congress of the United States, urging Congress to impel the United States National Guard Bureau to review resource allocations to the Florida National Guard and allow an increase to the state's force structure.

The memorial requires copies to be dispatched to the President of the United States, Speaker of the United States House of Representatives, and each member of the Florida delegation to the United States Congress.

A memorial is an official legislative document addressed to Congress, the President of the United States, or some other governmental entity that expresses the will of the Legislature on a matter within the jurisdiction of the recipient. A memorial requires passage by both legislative houses but does not require the Governor's approval nor is it subject to a veto.

II. Present Situation:

National Guard and the National Guard Bureau

The National Defense Act of 1916¹ established the National Guard Bureau as a separate unit of the militia division of the federal government.² In 1948, the Secretary of Defense of the United States Department of Defense issued an order designating the National Guard Bureau as a joint bureau of the Departments of the Army and Air Force.³ Today, the National Guard Bureau oversees each of the 54 National Guards in U.S. states and territories.⁴

¹ National Defense Act of 1916, H.R. 12766 (Public, No. 85) (June 3, 1916).

² National Archives, *Guide to Federal Records, Records of the National Guard Bureau (NGB)*, available at <https://www.archives.gov/research/guide-fed-records/groups/168.html> (last visited Dec. 2, 2021).

³ *Id.*

⁴ National Guard, *National Guard Fact Sheet, Army National Guard (FY2005)*, May 3, 2006, available at <https://www.nationalguard.mil/About-the-Guard/Army-National-Guard/Resources/News/ARNG-Media/FileId/137011/>.

The National Guard is unique among militia in that it serves the country in both the local community and overseas. The dual mission of a Guard member means that each member serves through both the National Guard of the state and through the U.S. Army or the U.S. Air Force.⁵ The collective membership of each National Guard is designated as its force structure. The force structure of each National Guard is allocated by the National Guard Bureau.⁶

Florida National Guard

The Florida National Guard goes back in time to 1565, when Spanish founders of St. Augustine organized a company of citizen-soldiers to protect the local community.⁷ A member of the Florida National Guard serves either in the state Army National Guard or in the state Air National Guard, considered a reserve component of each of those armed forces.⁸ Overseeing the National Guard as a federally-recognized officer, the adjutant general is appointed by the Governor and subject to Senate confirmation.⁹ As adjutant general, the officer is responsible for training and operations of the National Guard.¹⁰ The adjutant general must have served in the Florida National Guard for the preceding 5 years and attained the rank of colonel or higher. Ranked above adjutant general is the Governor, who serves in this role as commander-in-chief of all militia in the state.¹¹

Recent Duties of the Florida National Guard

In the past decade, state Guard members have been mobilized to multiple overseas deployments and assigned to assist and respond to natural disasters, domestic security, and Covid-19 vaccinations. For the Covid-19 response alone, the National Guard dedicated 2,906 servicemembers and 660,657 total days.¹² Since September 11, 2001, more than 25,000 Florida National Guard members have been mobilized to respond to out of-state and overseas operations.¹³

Demographics

The force structure of the Florida National Guard is comprised of nearly 12,000 members¹⁴, while Florida is the third most-populous state, estimated at nearly 22 million residents.¹⁵ The Department of Military Affairs states that the force structure in proportion to the state population

⁵ *Id.*

⁶ 10 USC 10503 (1).

⁷ Dep't of Military Affairs, *Home*, available at <https://dma.myflorida.com/> (last visited Nov. 30, 2021).

⁸ Section 250.01(3), (6), and (13), F.S.

⁹ Section 250.10(1), F.S.

¹⁰ Florida National Guard, *The Adjutant General of Florida*, available at <https://fl.ng.mil/leadership/Pages/The-Adjutant-General-of-Florida.aspx> (last visited Dec. 1, 2021).

¹¹ Section 250.06(1), F.S.

¹² Major General James O. Eifert, The Adjutant General, The Florida National Guard, Dep't of Military Affairs, *Florida National Guard Update Brief*, PowerPoint Presentation Oct. 12, 2021 before the Senate Committee on Military and Veterans Affairs, Space, and Domestic Security, pg. 5, available at [Florida National Guard.Presentation.pdf \(flsen.gov\)](Florida National Guard.Presentation.pdf (flsen.gov)) .

¹³ *Id.* at 6.

¹⁴ Florida National Guard, *supra* note 10.

¹⁵ World Population Review, *Florida Population*, available at <https://worldpopulationreview.com/states/florida-population> (last visited Dec. 2, 2021).

ranks Florida 53rd out of the 54 states and territories of the United States that have a National Guard.¹⁶ In the past 30 years, the state's population doubled, while the force structure of the National Guard declined in number.¹⁷ Along with the state's low positioning of Guard members to population, Florida is considered to be a disaster-prone state. The state is ranked 5th in most FEMA-declared disasters of all states in the last 70 years, and 3rd in most damage from natural disasters per household of all states in the nation.¹⁸ Moreover, geographically Florida is a large state with a significant coastline exposing the state to damaging hurricanes and climate change.¹⁹ More than 17 million Floridians live within 30 miles of coastline.²⁰

If the federal government approved a force structure of the Florida National Guard based solely on state population, Florida would have 25,000 guard members, more than double the current 12,000.²¹ Adding to the inequity between members and population, the state's population is expected to increase by 5 million people this decade.²²

Congressional Support for Increased Funding and Allocation

On March 24, 2021, members of the Florida Congressional Delegation sent a written request to both the Secretary of the United States Department of Defense and the Chief of the National Guard Bureau.²³ In their request, Congress members asked for more equitable funding and resource allocation for the state National Guard. These members of Congress based their request on the disproportionality between the state population compared to the size of the structure force, along with the state's unique vulnerability to continuing disasters.²⁴

On June 1, 2021, members of Congress representing California, Texas, and Florida sent a written request to the Secretary of Defense for an increased allocation for the National Guard particular to these states²⁵. In support, Congress members cite that California, Texas, and Florida rank at the lowest level of structure force to population and at the top for highest percentage of largest counties in the United States, and that these states expect to receive a disproportionate future increase in migration.²⁶

¹⁶ Department of Military Affairs, *2022 Agency Legislative Bill Analysis* (Nov. 30, 2021) (on file with the Senate Committee on Military and Veterans Affairs, Space, and Domestic Security). The analysis provides that "There are approximately 12,000 National Guardsmen in Florida, based on our population there should be between 18,000 and 21,000 Guardsmen to assist the State in times of need."

¹⁷ Major General James O. Eifert, *supra* note 12 at 9.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ Letter from members of the Florida Congressional Delegation to Secretary Lloyd J. Austin III, U.S. Dep't of Defense and Chief Daniel R. Hokanson, National Guard Bureau, March 24, 2021 (on file with the Senate Committee on Military and Veterans Affairs, Space, and Domestic Security).

²⁴ *Id.*

²⁵ Letter from members of the California, Texas, and Florida Congressional Delegations to Secretary Lloyd J. Austin, U.S. Dep't of Defense, June 1, 2021 (on file with the Senate Committee on Military and Veterans Affairs, Space, and Domestic Security).

²⁶ *Id.*

Memorial

A memorial is an official legislative document addressed to Congress, the President of the United States, or some other governmental entity that expresses the will of the Legislature on a matter within the jurisdiction of the recipient. A memorial requires passage by both legislative houses but does not require the Governor's approval nor is it subject to a veto.

III. Effect of Proposed Changes:

The bill is a memorial to the Congress of the United States, urging Congress to impel the United States National Guard Bureau to review resource allocations to the Florida National Guard and allow an increase to the state's force structure.

The memorial requires copies to be dispatched to the President of the United States, Speaker of the United States House of Representatives, and each member of the Florida delegation to the United States Congress.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

None.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

By Senator Wright

14-00932-22

2022826__

Senate Memorial

A memorial to the Congress of the United States, urging Congress to impel the United States National Guard Bureau to examine the resource allocations of the Florida National Guard and allow an increase in its force structure.

WHEREAS, the number of soldiers and airmen allocated to each state's National Guard, known as its "force structure," is determined by the United States National Guard Bureau in Washington, D.C., and

WHEREAS, with approximately 21 million residents, Florida is the third most populous state in the nation but nevertheless has a force structure of just over 12,000 Guardsmen, and its ratio of one Guardsman for every 1,833 residents ranks 53rd among the 54 states and territories of the United States which have a National Guard component, and

WHEREAS, due to the unprecedented events of 2020 and 2021, including the COVID-19 response, and in addition to natural disasters and overseas deployments, the Florida National Guard has expended the same number of workdays within the past 18 months as it expended over the past 20 years, and

WHEREAS, the Florida National Guard continues to meet its mission goals; however, the shortage of these invaluable "citizen soldiers," combined with the state's growing population and increased need for National Guard activation and response, has resulted in the repeated deployment of the same soldiers, which ultimately leads to their excessive fatigue and negatively impacts recruitment, retention, and readiness, and

Page 1 of 2

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14-00932-22

2022826__

WHEREAS, the United States National Guard Bureau's report, "Impact of U.S. Population Trends on National Guard Force Structure," released to Congress in April 2021, acknowledges the aforementioned concerns within Florida and other regions, stating, "The National Guard may need to evaluate re-allocating mission sets to other geographic areas to keep pace with changing demographics across the country," NOW, THEREFORE,

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

That the Florida Legislature respectfully urges the United States Congress to impel the United States National Guard Bureau to examine the resource allocations of the Florida National Guard and allow an increase in its force structure.

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

Page 2 of 2

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The Florida Senate

Committee Agenda Request

To: Senator Kathleen Passidomo, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: January 13, 2022

I respectfully request that **Senate Memorial 826**, relating to Florida National Guard, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in black ink that reads "Tom A. Wright". The signature is written in a cursive style with a large, sweeping initial "T".

Senator Tom A. Wright
Florida Senate, District 14

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to Senate professional staff conducting the meeting

SM 826

Bill Number or Topic

1/27/2022

Meeting Date

Rules

Committee

Amendment Barcode (if applicable)

Name

LTC ALEX KERR -> Military Affairs

Phone

850-414-9049

Address

400 North Monroe Street

Email

Alexander.P.Kerr.NFG@army.mil

Street

Tallahsee

City

FL

State

32319

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL: SB 7024

INTRODUCER: Governmental Oversight and Accountability Committee

SUBJECT: OGSR/Alleged Victim or Victim of Sexual Harassment

DATE: January 25, 2022

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
<u>Limones-Borja</u>	<u>McVaney</u>		GO submitted as Comm. Bill/Fav
1. <u>Limones-Borja</u>	<u>Phelps</u>	<u>RC</u>	Favorable

I. Summary:

SB 7024 saves from repeal the current exemption codified in s. 119.071(2)(n), F.S., which makes the personal identifying information of the alleged victim in an allegation of sexual harassment confidential and exempt from public inspection and copying. The bill expands this exemption to include the personal identifying information of a victim of sexual harassment. The bill clarifies that the personal identifying information is only confidential and exempt if the information identifies that person as an alleged victim or a victim of sexual harassment. The bill allows the alleged victim or victim to waive confidentiality. The bill provides a public necessity statement.

The bill provides the exemption is subject to the Open Government Sunset Review Act and unless reviewed and saved from repeal through reenactment by the Legislature shall be repealed on October 2, 2027.

The bill is not expected to impact state or local government revenues and expenditures.

The bill takes effect October 1, 2022.

II. Present Situation:

Public Records Law

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.*

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.

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.

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

All documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connections 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 used to “perpetuate, communicate, or formalize knowledge of some type.”⁶

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

Only the Legislature may create an exemption to 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 provisions¹¹

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.

⁹ FLA. CONST., art. I, s. 24(c).

¹⁰ *Id.*

¹¹ The bill may, however, contain multiple exemptions that relate to one subject.

and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.¹²

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 which 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 such 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 it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

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

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.

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.

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 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

Regulation of Sexual Harassment

It is unlawful to harass a person (an applicant or employee) because of that person's sex. Harassment can include "sexual harassment" or unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature.²⁶

Harassment does not have to be of a sexual nature, however, it can include offensive remarks about a person's sex. For example, it is illegal to harass a woman by making offensive comments about women in general. Both victim and the harasser can be either a woman or a man, and the victim and harasser can be the same sex.²⁷

Although the law does not prohibit simple teasing, offhand comments, or isolated incidents that are not very serious, harassment is illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision (such as the victim being fired or demoted). The harasser can be the victim's supervisor, a supervisor in another area, a co-worker, or someone who is not an employee of the employer, such as a client or customer.²⁸

Florida law states that sexual harassment is a form of discrimination.²⁹ The Department of Management Services, the state's personnel agency, has adopted rules on sexual harassment applicable to all executive agencies. Rule 60L-40.001, F.A.C., provides that,

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 U.S. Equal Employment Opportunity Commission website https://www.eeoc.gov/laws/types/sexual_harassment.cfm. (Last visited October 4, 2021.)

²⁷ *Id.*

²⁸ *Id.*

²⁹ Section 110.1221, F.S.

Sexual harassment means unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature from any person directed towards or in the presence of an employee or applicant when:

- (a) Submission to such conduct is either explicitly or implicitly a term or condition of an individual's employment;
- (b) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- (c) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Open Government Sunset Review of the Public Records Exemption for Personal Identifying Information of the Alleged Victim of Sexual Harassment

In 2017, the Legislature created the public records exemption to make the personal identifying information of the alleged victim in an allegation of sexual harassment confidential and exempt from public record requirements indefinitely. The government agency who holds the personal identifying information of the alleged victim may only reveal such protected information to another governmental entity in the furtherance of their duties. The public necessity statement, as required by the State Constitution, specified that it is a public necessity to protect personal identifying information of alleged victims because disclosure of the information could place them at risk of further harassment and retaliation. In addition, the potential for disclosure of identifying information could discourage alleged victims from reporting instances of alleged harassment.

The Senate Governmental Oversight and Accountability Committee and the House Government Operations Subcommittee surveyed multiple agencies to ascertain whether the public records exemption in s. 119.071(2)(n), F.S., remains necessary. Staff reviewed the agencies' responses and a majority of the agencies recommend that the Legislature reenact the public records exemption without any changes. A few responding agencies recommended clarification as to (1) the time period for which the exempt status applies and (2) whether the alleged victim's personal identifying information is confidential and exempt in all contexts across agency records, or only when used to identify that person as the alleged victim of sexual harassment.

III. Effect of Proposed Changes:

Section 1 amends s. 119.071, F.S., to make confidential and exempt from public inspection and copying personal identifying information of a victim of sexual harassment as well as the alleged victim in an allegation of sexual harassment. The section clarifies that such information is only confidential and exempt if it identifies that person as an alleged victim or victim of sexual harassment. The section permits the alleged victim or victim to waive confidentiality in writing. The government agency who holds the identity of the alleged victim can only reveal the personal identifying information to another governmental entities in the furtherance of their duties

Section 2 provides a public necessity statement, as required by the State Constitution, specifying that it is a public necessity to protect personal identifying information of alleged victims and

victims because disclosure of the information could place them at risk of further harassment and retaliation or deter people from reporting instances of alleged harassment.

The bill provides for repeal of the exemption on October 2, 2027, unless reviewed and saved from repeal through reenactment by the Legislature.

The bill takes effect on October 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

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. This bill expands a current public records exemption. Thus, the bill requires an extraordinary vote for enactment.

Public Necessity Statement

Article 1, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. This bill expands a current public records exemption to include victims of sexual harassment thus a statement of public necessity was included.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of this law is to protect the personal identifying information of the alleged victim in an allegation of sexual harassment or the victim of sexual harassment. The exemption does not appear to be broader than necessary to accomplish the purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The private sector will continue to be subject to the cost associated with an agency's review and redactions of exempt records in response to a public records request.

C. Government Sector Impact:

The government sector will continue to incur costs related to the review and redaction of exempt records associated with responding to public records requests.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 119.071(2)(n) of the Florida Statutes:

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

By the Committee on Governmental Oversight and Accountability

585-01993-22

20227024__

A bill to be entitled

An act relating to a review under the Open Government Sunset Review Act; amending s. 119.071, F.S.; revising an exemption from public records requirements for personal identifying information of the alleged victim in an allegation of sexual harassment or the victim of sexual harassment if such information identifies that person as an alleged victim or as a victim of sexual harassment; authorizing the alleged victim or the victim to waive confidentiality in writing; extending the date for future legislative review and repeal of the exemption; providing a statement of public necessity; providing an effective date.

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

Section 1. Paragraph (n) of subsection (2) of section 119.071, Florida Statutes, is amended to read:

119.071 General exemptions from inspection or copying of public records.—

(2) AGENCY INVESTIGATIONS.—

(n) Personal identifying information of the alleged victim in an allegation of sexual harassment or the victim of sexual harassment is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution if such information identifies that person as an alleged victim or as a victim of sexual harassment. Confidentiality may be waived in writing by the alleged victim or the victim. Such information may be disclosed to another governmental entity in the furtherance of

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

585-01993-22

20227024__

its official duties and responsibilities. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, ~~2027~~ ~~2022~~, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that personal identifying information of the alleged victim in an allegation of sexual harassment or the victim of sexual harassment be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution if such information identifies that person as an alleged victim or as a victim of sexual harassment. The disclosure of such information could harm alleged victims or victims of sexual harassment by placing them at risk of further harassment and retaliation. Additionally, the potential for disclosure of such information could create a disincentive for alleged victims to report instances of alleged harassment. Therefore, the Legislature finds that the potential harm that may result from the release of such information outweighs any public benefit that may be derived from the disclosure of such information.

Section 3. This act shall take effect October 1, 2022.

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The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL: SB 7026

INTRODUCER: Governmental Oversight and Accountability Committee

SUBJECT: OGSR/Dependent Eligibility Verification Services

DATE: January 25, 2022

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
<u>Ponder</u>	<u>McVaney</u>		GO submitted as Comm. Bill/Fav
1. <u>Ponder</u>	<u>Phelps</u>	<u>RC</u>	Favorable

I. Summary:

SB 7026 amends s. 110.12301, F.S., to save from repeal the current exemption from public records disclosure for certain information submitted to the Department of Management Services (DMS) for purposes of dependent eligibility verification for the State Group Insurance Program (SGI Program).

The bill also revises s. 110.12301, F.S., to provide with specificity the documents that may be collected by the DMS to verify dependent eligibility and removes a current provision that permits the collection of “any other information” for such purposes. The bill narrows the application of the exemption by removing the catch all provision and specifically enumerating the information that the DMS currently holds as exempt under the catch all provision.

The original public necessity statement for the bill states that it is in the best interest of the public that records collected for purposes of dependent eligibility verification services conducted for the SGI Program be confidential and exempt. Employees enrolled in the SGI Program are required to produce sensitive and personal information to verify their eligibility and that of their dependent(s). Therefore, protecting such information helps protect state employees and their families from criminal or inappropriate use of their personal information.

Section 110.12301, F.S., is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2022, unless reviewed and saved from the repeal through reenactment by the Legislature. This bill removes the scheduled repeal of the exemption.

This bill does not appear to have a fiscal impact on state or local governments.

This bill takes effect on October 1, 2022.

II. Present Situation:

Public Records Law

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

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.

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.

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

All documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connections 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 used to “perpetuate, communicate, or formalize knowledge of some type.”⁶

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

¹ FLA. CONST., art. I, s. 24(a).

² *Id.*

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).

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

Only the Legislature may create an exemption to 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 provisions¹¹ and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.¹²

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 which 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 such exemption on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption 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 it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

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.

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
- Releasing sensitive personal information would be defamatory or would jeopardize an individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;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 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

State Group Insurance Program

Overview

The State Group Insurance Program (SGI Program) is created by s. 110.123, F.S., and is administered by the Division of State Group Insurance (DSGI) within the Department of Management Services (DMS). The SGI Program is an optional benefit for state employees employed by state agencies, state universities, the court system, and the Legislature. The SGI Program administers health, life, dental, vision, disability, and other supplemental insurance benefits.

State Health Insurance Plans

The SGI Program provides four options for employees and retirees to choose as their health plan:

- The standard Preferred Provider Organization (PPO) plan, administered by Florida Blue.
- The high deductible PPO plan, administered by Florida Blue.

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.

- The standard health maintenance organization (HMO) services.²⁶
- The high deductible HMO.

Pharmacy Benefit

The SGI Program also has a pharmacy benefit for members of the plan. The SGI Program covers all federal legend drugs (open formulary) for covered medical conditions and employs very limited utilization review and clinical review for traditional or specialty prescription drugs. The DMS contracts with CVS/Caremark, a pharmacy benefits manager, to administer the Prescription Drug Plan.²⁷

Eligible Employees

The SGI Program is open to the following individuals:

- All state officers;
- All state employees paid from “salaries and benefits” appropriation categories, regardless of the number of hours worked;
- Retired state officers and state employees;
- Surviving spouses of deceased state officers and state employees;
- Certain terminated state officers and state employees; and
- Certain state employees paid from “other-personal-services” (OPS) appropriation categories.

For OPS employees to be eligible to participate in the health insurance program, the employee must:

- Be reasonably expected to work an average of at least 30 hours per week; and
- Have worked an average of at least 30 hours per week during the person’s measurement period (which is 12 consecutive months²⁸ of employment).²⁹

Dependent Eligibility

The SGI Program covers employees and retirees of state agencies and their eligible dependents. An eligible dependent is defined as:

- A current spouse to whom the member is legally married.
- A biological child, child with a qualified medical support order, legally adopted child, or child placed in the home for the purpose of adoption in accordance with applicable state and federal laws, through the end of the calendar year in which he/she turns age 26.
- A stepchild, for as long as the member remains legally married to the child’s parent, through the end of the calendar year in which he/she turns age 26.
- A foster child placed in the member’s home by the Department of Children and Families Foster Care Program or the foster care program of a licensed private agency, through the end of the calendar year in which he/she turns age 26.

²⁶ These are provided by Aetna, AvMed, Capital Health Plan, and UnitedHealthcare. One of these HMO plans is offered in each county in the State of Florida.

²⁷ myBenefits, Prescription Drug Plan, https://www.mybenefits.myflorida.com/health/health_insurance_plans/prescription_drug_plan (last viewed January 6, 2022)

²⁸ Section 110.123(13)(d), F.S.

²⁹ Section 110.123(2)(c)2., F.S.

- A child for whom the member has legal guardianship through the end of the calendar year in which he/she turns age 26.
- An over-age dependent, after the end of the calendar year in which he/she turns 26, through the end of the calendar year in which he/she turns 30 – if he/she is unmarried, has no dependents of his/her own, is a resident of Florida or a full- or part-time student, and has no other health insurance.
- An over-age dependent with a disability.
- A newborn dependent of a member's covered child for up to 18 months of age as long as the newborn's parent remains covered.
- A child of law enforcement, probation, or correctional officers who were killed in the line of duty, who are attending a college or university beyond their 18th birthday.
- A surviving spouse and dependents.

Dependents may be added as covered dependents during the open enrollment period each year or in the event of a qualifying status change. Minimal information is collected by the DMS to determine eligibility.

Dependent Eligibility Verification

During the 2017 Legislative Session, the DSGI was directed to contract with a vendor to verify the eligibility of all dependents participating in the SGI Plan. The DSGI provided notice to all subscribers and on July 1, 2020, via the People First Service Center, began requesting subscribers to provide documents as part of the dependent eligibility verification process. The documents include tax transcripts from the Internal Revenue Service, marriage licenses, birth certificates, adoption documents, and other documents.³⁰

Enrollment

For FY 2020-21, the final enrollment reflected 175,046 subscribers and 187,244 dependents, totaling 362,290 covered lives.³¹ Approximately 47.1% of subscribers are enrolled in PPO plans, 52.3% are enrolled in HMO plans, and 0.6% are enrolled in a Medicare Advantage Prescription Drug plan.³² Subscriber enrollment in individual coverage was 47.8%, and 52.2% were enrolled in family coverage, which had an average size of 3.05 members.³³

Open Government Sunset Review of the Public Records Exemption for Dependent Eligibility Verification

In September 2021, the Senate Governmental Oversight and Accountability Committee and the House Government Operations Subcommittee spoke with representatives of the DMS regarding the need to maintain the exemption for records collected for the purposes of dependent eligibility verification services conducted for the SGI Program. Additionally, an Open Government Sunset Review Questionnaire was provided to the DMS.

³⁰ See s. 110.12301(2)(b), F.S.

³¹ State Employee's Group Health Self-Insurance Trust Fund, Report on Financial Outlook, For the Fiscal Years Ending June 30, 2021 through June 30, 2026, <http://edr.state.fl.us/content/conferences/healthinsurance/HealthInsuranceOutlook.pdf> (last visited January 7, 2022).

³² *Id.* at p. 1.

³³ *Id.*

The DMS recommended that the exemption remain in effect with changes to remove obsolete language and to include specified documentation that is routinely collected under the “catch-all” provision³⁴- “any other information.”

III. Effect of Proposed Changes:

Section 1 amends s. 110.12301, F.S., to designate the Department of Management Services (DMS) rather than the Division of State Group Insurance, as the entity that contracts for dependent eligibility verification services for the State Group Insurance Program. This section is amended to permit the department, in addition to the contractor as provided for in current law, to require certain information from subscribers for dependent eligibility verification.

The bill permits subscribers to submit the following attestations by sworn affidavit consistent with s. 92.50, F.S., (attestation), if specified information cannot be produced:

- An attestation of marriage to prove a spouse’s eligibility, if a joint federal income tax return or government-issued marriage certificate cannot be produced.³⁵
- An attestation of the subscriber-dependent relationship to prove a biological child or a newborn grandchild’s eligibility, if a birth certificate cannot be produced.
- An attestation of the subscriber-dependent relationship to prove an adopted child’s eligibility, if an adoption certificate or an adoption placement agreement and petition for adoption cannot be produced.

The bill further amends s. 110.12301(2), F.S., as follows:

To Prove Eligibility of:	Documentation Required:
A child under a guardianship	A copy of the court order naming the subscriber or the subscriber’s spouse as the child’s legal guardian or custodian.
A foster child	Records showing the subscriber or the subscriber’s spouse as the dependent’s foster parent
An unmarried child age 26 to 30	<ul style="list-style-type: none"> • A copy of the child’s government-issued birth certificate or adoption certificate naming the subscriber or the subscriber’s spouse as the child’s parent, or a copy of the court order naming the subscriber or the subscriber’s spouse as the child’s legal guardian or custodian; • A copy of the Certification of Over-Age Dependent Eligibility Form; and

³⁴ Section 110.12301(2)(b)5., F.S.

³⁵ Section 110.12301(2)(a)1.a., F.S., requires for a marriage of less than 12 months, submission of government-issued marriage certificate, if a joint federal income tax return has not been filed. Section 110.12301(2)(a) and b., F.S., require submission of a

	<ul style="list-style-type: none"> • A document confirming the child’s current enrollment as a student, including the name of the child, the name of the school, and the school term; or a bill or statement in the child’s name which is dated within the past 60 days and is mailed to the child at a Florida address.
<p>A disabled child age 26 or older</p>	<ul style="list-style-type: none"> • A copy of the child’s government-issued birth certificate or adoption certificate naming the subscriber or the subscriber’s spouse as the child’s parent, or a copy of the court order naming the subscriber or the subscriber’s spouse as the child’s legal guardian or custodian; and • A copy of the subscriber’s most recent federal income tax return listing the child’s name and the last four digits of the child’s social security number and identifying the child as the subscriber’s dependent for tax purposes.

The section revises the provision regarding foreign-born subscribers, to require a sworn affidavit consistent with s. 92.50, F.S., attesting to eligibility requirements be produced if such subscribers are unable to obtain the necessary documentation with the specified time period of producing verification documentation.³⁶

The section amends the document retention provision in s. 110.12301(2)(f), F.S., to replace “contractor” with the DMS and requires the DMS to retain all documentation obtained to conduct the dependent eligibility verification services in accordance with the applicable records retention schedule.

The section deletes the scheduled repeal of the exemption relating to documentation held by the DMS (or its agent) for the purposes of dependent eligibility verification services.

Section 2 provides that the bill takes effect on October 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities

³⁶ Current law permits foreign-born subscribers to execute a signed affidavit attesting to eligibility requirements if they are unable to obtain the necessary documentation within the specified time period of producing verification documentation.

have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

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. The bill revises the type of records that the DMS or a contractor providing dependent eligibility verification services may require from a subscriber. These “new” records covered by the exemption, however, are, as a matter of current and historical practice, routinely collected by the DMS for dependent eligibility verification under the authority of s. 110.12301(2)(b)(5), F.S., which allows the DMS to request “any other information.” The bill removes this catch all provision and specifically enumerates the records that subscribers are required to submit for dependent eligibility verification. Thus, the revisions narrow the application of the public records exemption to the documentation specified by law. Because this bill continues a current public records exemption with revisions that narrow its application, the bill does not require an extraordinary vote for enactment.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. This bill continues a current public records exemption without expansion. Thus, a statement of public necessity is not required.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of the law is to protect subscriber’s sensitive and personal information submitted to the DMS for purposes of dependent eligibility verification. This bill exempts only specified information related to documenting or proving a relationship with a dependent from the public records requirements. The exemption does not appear to be broader than necessary to accomplish the purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The private sector will continue to be subject to the cost associated with agency making redactions in response to a public records request.

C. Government Sector Impact:

Governmental agencies will continue to incur costs related to the redaction of records in responding to public records requests.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 110.12301 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

By the Committee on Governmental Oversight and Accountability

585-01998-22

20227026__

A bill to be entitled

An act relating to a review under the Open Government Sunset Review Act; amending s. 110.12301, F.S.; designating the Department of Management Services, rather than the Division of State Group Insurance, as the entity that contracts for dependent eligibility verification services for the state group insurance program; authorizing the department or the contractor providing dependent eligibility verification services to require certain information from subscribers; deleting obsolete language; revising the types of information that the department or a contractor providing eligibility verification services may require from subscribers in order to establish dependent eligibility for the state group insurance program; deleting a provision requiring the Division of State Group Insurance and the contractor to disclose to subscribers that dependent eligibility verification information may be subject to disclosure and inspection under public records laws under certain circumstances; revising the records retention schedule regarding documents obtained during the dependent eligibility verification process; abrogating the scheduled repeal of an exemption from public records requirements for records collected for dependent eligibility verification services for the state group insurance program and held by the Department of Management Services; providing an effective date.

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

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

Section 1. Subsection (2) of section 110.12301, Florida Statutes, is amended to read:

110.12301 Competitive procurement of postpayment claims review services and dependent eligibility verification services; public records exemption.—

(2) The department ~~Division of State Group Insurance~~ is directed to ~~competitively procure~~ a contract for dependent eligibility verification services for the state group insurance program; ~~however, compensation under the contract may not exceed historical claim costs for the prior 12 months for the dependent populations disenrolled as a result of the contractor's~~ services.

(a) ~~1. By September 1, 2017, the division shall notify all subscribers regarding the eligibility rules for dependents. Through November 30, 2017, the division must hold subscribers harmless for past claims of ineligible dependents if such dependents are removed from plan membership before December 1, 2017.~~

~~2. Subparagraph 1. does not apply to any dependent identified as ineligible before July 1, 2017, for which the department has notified the state agency employing the associated subscriber.~~

~~(b)~~ The department or the contractor providing dependent eligibility verification services may require ~~request~~ the following information from subscribers:

1. To prove a spouse's eligibility:

a. If married less than 12 months and the subscriber and

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59 his or her spouse have not filed a joint federal income tax
 60 return, a government-issued marriage certificate; ~~or~~
 61 b. If married for 12 or more months, a transcript of the
 62 most recently filed federal income tax return; or
 63 c. If the documentation specified in sub-subparagraph a. or
 64 sub-subparagraph b. cannot be produced, an attestation of the
 65 marriage by sworn affidavit consistent with s. 92.50.

66 2. To prove a biological child's or a newborn grandchild's
 67 eligibility:
 68 a. A government-issued birth certificate; or
 69 b. If a birth certificate cannot be produced, an
 70 attestation of the subscriber-dependent relationship by sworn
 71 affidavit consistent with s. 92.50.

72 3. To prove an adopted child's eligibility:
 73 a. An adoption certificate; ~~or~~
 74 b. An adoption placement agreement and a petition for
 75 adoption; ~~or~~
 76 c. If the documentation specified in sub-subparagraph a. or
 77 sub-subparagraph b. cannot be produced, an attestation of the
 78 subscriber-dependent relationship by sworn affidavit consistent
 79 with s. 92.50.

80 4. To prove a stepchild's eligibility:
 81 a. A government-issued birth certificate for the stepchild;
 82 and
 83 b. The transcript of the subscriber's most recently filed
 84 federal income tax return.

85 5. To prove a child's eligibility under a guardianship, a
 86 copy of the court order naming the subscriber or the
 87 subscriber's spouse as the child's legal guardian or custodian

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88 ~~Any other information necessary to verify the dependent's~~
 89 ~~eligibility for enrollment in the state group insurance program.~~

90 6. To prove a foster child's eligibility, a copy of the
 91 records showing the subscriber or the subscriber's spouse as the
 92 dependent's foster parent.

93 7. To prove eligibility of an unmarried child age 26 to 30:
 94 a. A copy of the child's government-issued birth
 95 certificate or adoption certificate naming the subscriber or the
 96 subscriber's spouse as the child's parent, or a copy of the
 97 court order naming the subscriber or the subscriber's spouse as
 98 the child's legal guardian or custodian;
 99 b. A copy of the Certification of Over-Age Dependent
 100 Eligibility Form; and
 101 c. A document confirming the child's current enrollment as
 102 a student, including the name of the child, the name of the
 103 school, and the school term; or a bill or statement in the
 104 child's name which is dated within the past 60 days and is
 105 mailed to the child at a Florida address.

106 8. To prove eligibility for a disabled child age 26 or
 107 older:
 108 a. A copy of the child's government-issued birth
 109 certificate or adoption certificate naming the subscriber or the
 110 subscriber's spouse as the child's parent, or a copy of the
 111 court order naming the subscriber or the subscriber's spouse as
 112 the child's legal guardian or custodian; and
 113 b. A copy of the subscriber's most recent federal income
 114 tax return listing the child's name and the last four digits of
 115 the child's social security number and identifying the child as
 116 the subscriber's dependent for tax purposes

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117 ~~(e) If a document requested from a subscriber is not~~
 118 ~~confidential or exempt from public records requirements, the~~
 119 ~~division and the contractor shall disclose to all subscribers~~
 120 ~~that such information submitted to verify the eligibility of~~
 121 ~~dependents may be subject to disclosure and inspection under~~
 122 ~~chapter 119.~~

123 ~~(b) (d)~~ A government-issued marriage license or marriage
 124 certificate submitted for dependent eligibility verification
 125 must include the date of the marriage between the subscriber and
 126 the spouse.

127 ~~(c) (e)~~ A government-issued birth certificate submitted for
 128 dependent eligibility verification must list the parents' names.

129 ~~(d) (f)~~ Foreign-born subscribers unable to obtain the
 130 necessary documentation within the specified time period of
 131 producing verification documentation may provide a sworn ~~execute~~
 132 ~~a signed~~ affidavit consistent with s. 92.50 attesting to
 133 eligibility requirements.

134 ~~(e) (g)~~ Documentation submitted to verify eligibility may be
 135 an original or a photocopy of an original document. Before
 136 submitting a document, the subscriber may redact any information
 137 on a document which is not necessary to verify the eligibility
 138 of the dependent.

139 ~~(f) (h)~~ All documentation obtained by the department
 140 ~~contractor~~ to conduct the dependent eligibility verification
 141 services must be retained in accordance with the applicable
 142 records retention schedule until June 30, 2019. ~~The department~~
 143 ~~or the contractor is not required to retain such documentation~~
 144 ~~after June 30, 2019, and shall destroy such documentation as~~
 145 ~~soon as practicable after such date.~~

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146 (3) Records collected for purposes of dependent eligibility
 147 verification services conducted for the state group insurance
 148 program, as authorized under subsection (2), and held by the
 149 department are confidential and exempt from s. 119.07(1) and s.
 150 24(a), Art. I of the State Constitution. This subsection does
 151 not apply to records that are otherwise open for inspection and
 152 copying which are held by the department for purposes other than
 153 for the performance of dependent eligibility verification
 154 services. ~~This subsection is subject to the Open Government~~
 155 ~~Sunset Review Act in accordance with s. 119.15 and shall stand~~
 156 ~~repealed on October 2, 2022, unless reviewed and saved from~~
 157 ~~repeal through reenactment by the Legislature.~~

158 Section 2. This act shall take effect July 1, 2022.

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CourtSmart Tag Report

Room: KB 412

Case No.: -

Type:

Caption: Senate Rules Committee

Judge:

Started: 1/27/2022 9:02:02 AM

Ends: 1/27/2022 10:45:28 AM

Length: 01:43:27

9:02:00 AM Meeting called to order by Chair Passidomo
9:02:10 AM Roll call by CAA
9:02:16 AM Quorum announced
9:02:38 AM Opening comments by Chair
9:03:00 AM Tab 2 SB 360
9:03:09 AM Senator Harrell explains the bill
9:04:19 AM Senator Harrell waives close
9:04:29 AM Roll call on SB 360
9:04:36 AM SB 360 is reported favorably
9:05:08 AM Tab 7 SB 704
9:05:16 AM Senator Harrell explains the bill
9:07:03 AM Appearance Form
9:07:05 AM Ed Chase, Palm Beach County, waives in support
9:07:12 AM Senator Brandes with question/debate
9:07:18 AM Senator Harrell responds
9:07:44 AM Senator Harrell waives close
9:07:49 AM Roll call on SB 704
9:07:56 AM SB 704 is reported favorably
9:08:21 AM Tab 1 SB 288
9:08:42 AM Senator Garcia explains the bill
9:09:19 AM Senator Powell with question
9:09:27 AM Senator Garcia responds
9:10:14 AM Appearance Forms
9:10:16 AM Edgar Castro, Recording Industry Association of America, waives in support
9:10:24 AM Senator Garcia waives close
9:10:29 AM Roll call on SB 288
9:10:35 AM SB 288 is reported favorably
9:10:58 AM Tab 4 SB 474
9:11:05 AM Senator Perry explains the bill
9:11:35 AM Appearance Form
9:11:38 AM Steve Dyal, Polaris, waives in support
9:11:46 AM Senator Perry waives close
9:11:51 AM Roll call on SB 474
9:11:54 AM SB 474 is reported favorably
9:12:32 AM Tab 8 CS/SB 754
9:12:55 AM Senator Hutson explains the bill
9:13:24 AM Appearance Forms
9:13:29 AM Rhonda Skipper, Florida Tax Collectors Association, waives in support
9:13:32 AM Tim Qualls, General Counsel, Florida Tax Collectors Association, waives in support
9:13:38 AM Sylvia Talevich, Executive Director, Florida Tax Collectors Association, waives in support
9:13:48 AM Senator Hutson waives close
9:13:58 AM Roll call on CS/SB 754
9:14:02 AM CS/SB 754 is reported favorably
9:14:27 AM Tab 6 CS/SB 566
9:14:35 AM Senator Gruters explains the bill
9:15:29 AM Senator Gruters waives close
9:15:36 AM Roll call on CS/SB 566
9:15:50 AM CS/SB 566 is reported favorably
9:16:19 AM Tab 3 SB 418
9:16:28 AM Senator Pizzo explains the bill
9:17:04 AM Appearance Form
9:17:08 AM Megan Germain, FFAST, Inc., speaks in support

9:19:37 AM Senator Pizzo waives close
9:19:42 AM Roll call on SB 418
9:19:48 AM SB 418 is reported favorably
9:20:08 AM Tab 9 SM 826
9:20:13 AM Senator Wright explains the bill
9:21:27 AM Appearance Form
9:21:31 AM LTC Alex Kerr waives in support
9:21:39 AM Senator Wright waives close
9:21:44 AM Roll call on SM 826
9:21:51 AM SM 826 is reported favorably
9:22:19 AM Tab 10 SB 7024
9:22:33 AM Senator Brandes explains the bill
9:22:57 AM Senator Brandes waives close
9:23:03 AM Roll call on SB 7024
9:23:09 AM SB 7024 is reported favorably
9:23:34 AM Tab 11 SB 7026
9:23:42 AM Senator Brandes explains the bill
9:23:55 AM Senator Brandes waives close
9:24:05 AM Roll call on SB 7026
9:24:12 AM SB 7026 is reported favorably
9:24:46 AM Tab 5 CS/SB 520
9:24:57 AM Senator Brandes explains the bill
9:25:22 AM Senator Book with question
9:25:28 AM Senator Brandes responds
9:26:40 AM Senator Book with question
9:26:45 AM Senator Brandes responds
9:26:49 AM Senator Farmer with question
9:27:35 AM Senator Brandes responds
9:29:39 AM Senator Farmer with follow-up
9:30:32 AM Senator Brandes responds
9:32:52 AM Senator Gibson with question
9:33:07 AM Senator Brandes responds
9:33:46 AM Senator Gibson with follow-up
9:33:53 AM Senator Brandes responds
9:33:56 AM Senator Gibson with question
9:34:02 AM Senator Brandes responds
9:34:35 AM Senator Gibson with question
9:34:42 AM Senator Brandes responds
9:36:23 AM Senator Book with follow-up
9:36:30 AM Senator Brandes responds
9:37:41 AM Appearance Forms
9:37:48 AM Alexis Montalvo, Florida Education Association, waives against
9:37:56 AM Eric Rodriguez waives against
9:37:58 AM Mark Motl waives against
9:38:02 AM Angela Callahan waives against
9:38:07 AM Glenda Abicht waives against
9:38:13 AM Patricia Farley waives against
9:38:15 AM Victoria Smith waives against
9:38:18 AM Vince LaBorante waives against
9:38:21 AM Helen Hamel waives against
9:38:24 AM Gabriel Tubendstein waives against
9:38:31 AM Candace Churchill waives against
9:38:35 AM Lare Allen waives against
9:38:38 AM Deandre Poole waives against
9:38:40 AM Robin Goodman waives against
9:38:45 AM Patty Ball Thomas waives against
9:38:48 AM Scott Mazur waives against
9:38:48 AM Elizabeth Key-Raimer waives against
9:38:51 AM Speakers
9:39:22 AM Dr. Ana Ciereszko, United Faculty of Miami-Dade College, speaks against
9:42:09 AM Dr. Linda Hill Perdue waives against
9:42:11 AM Heather Weaver waives against

9:42:28 AM Victoria Kidwell waives against
9:42:32 AM Diana Moore waives against
9:42:35 AM Camila Cisneros speaks against
9:45:02 AM Dr. Rich Templin, Florida AFL-CIO, speaks against
9:49:07 AM Senator Book with question
9:49:21 AM Dr. Templin responds
9:50:25 AM Senator Book with follow-up
9:50:33 AM Dr. Templin responds
9:51:44 AM Senator Brandes with question
9:52:16 AM Dr. Templin responds
9:53:58 AM Senator Hutson with question
9:54:05 AM Dr. Templin responds
9:54:38 AM Senator Hutson with question
9:54:46 AM Dr. Templin responds
9:55:36 AM Senator Hutson with follow-up
9:55:42 AM Dr. Templin responds
9:55:59 AM Senator Gibson with question
9:56:15 AM Dr. Templin responds
9:57:53 AM Elisabeth Emery speaks against
9:58:38 AM Andrew Gothard speaks against
10:01:28 AM Senator Farmer with question
10:02:39 AM Mr. Gothard responds
10:04:12 AM Patrick Niner speaks against
10:07:27 AM Senator Powell with question
10:07:34 AM Mr. Niner responds
10:07:44 AM Virginia Hamrick, Florida First Amendment Foundation, speaks against
10:10:25 AM Senator Brandes with comments
10:10:57 AM Matthew Lata speaks against
10:14:17 AM Senator Hutson with question
10:14:25 AM Mr. Lata responds
10:14:41 AM Regina Gilmore speaks against
10:16:35 AM Izuchukwu Ezukawma speaks against
10:20:33 AM Mike Martin, President, Florida Gulf Coast University, speaks in support
10:24:52 AM Senator Hutson with question
10:25:01 AM President Martin responds
10:26:03 AM Gilda Morgan-Williams waives against
10:26:16 AM Brad DeCorte waives against
10:26:18 AM Michael Woods waives against
10:26:18 AM Ulysses Floyd waives against
10:26:19 AM Senator Book in debate
10:27:44 AM Senator Farmer in debate
10:33:20 AM Senator Baxley in debate
10:35:02 AM Senator Powell in debate
10:37:08 AM Senator Gibson in debate
10:39:22 AM Senator Brandes closes on bill
10:41:34 AM Roll call on CS/SB 520
10:42:35 AM CS/SB 520 is reported favorably
10:43:16 AM Senator Bracy vote motions on Tabs, 1,2,3,4,6,7,8,11
10:43:53 AM Senator Albritton vote motions on Tabs 1,2,3,4,6,7,8,9,10,11
10:44:10 AM Senator Boyd vote motions on Tabs 1,2,4,7
10:44:18 AM Senator Brandes vote motions on Tab 2
10:44:25 AM Senator Garcia vote motions on Tabs 3,4,6,8,9,10,11
10:44:39 AM Senator Stargel vote motions on Tabs 2,3,7
10:44:53 AM Senator Farmer vote motions on Tabs 1,2,7
10:45:08 AM Motions adopted
10:45:14 AM Senator Farmer moves to adjourn
10:45:17 AM Meeting adjourned