Tab 1	**SB 14** by **Jones;** Identical to H 06519 Relief of the Estate of Peniel Janvier by the City of Miami Beach

Tab 2	**SB 20** by **Burgess;** Identical to H 06529 Relief of J.N., a Minor, by Hillsborough County

Tab 3	**CS/SB 68** by **HP, Martin;** Similar to CS/H 00229 Health Facilities Authorities

Tab 4	**CS/SB 172** by **HP, Burton (CO-INTRODUCERS) Passidomo;** Similar to H 01341 Health Care Practitioner Specialty Titles and Designations

708196	A	S		RC, Burton	btw L.159 - 160:	03/31 07:59 AM

Tab 5	**CS/CS/SB 184** by **ATD, CA, Gaetz;** Compare to CS/H 00247 Affordable Housing

316654	A	S	L	RC, Gaetz	Delete L.38 - 77:	03/31 09:19 AM

Tab 6	**CS/CS/SB 248** by **JU, ED, Simon;** Compare to CS/CS/H 00151 Student Participation in Interscholastic and Intrascholastic Extracurricular Sports

888380	D	S		RC, Simon	Delete everything after	03/31 08:08 AM

Tab 7	**CS/CS/SB 268** by **CA, GO, Jones (CO-INTRODUCERS) Brodeur;** Compare to H 00789 Public Records/Congressional Members and Public Officers

Tab 8	**CS/CS/SB 304** by **JU, CF, Sharief (CO-INTRODUCERS) Garcia, Rouson, Gaetz, Collins, Bernard, Smith, Davis;** Similar to CS/H 00511 Specific Medical Diagnoses in Child Protective Investigations

Tab 9	**CS/CS/SB 312** by **GO, HE, Gaetz (CO-INTRODUCERS) Harrell;** Identical to CS/H 00179 Florida Institute for Human and Machine Cognition, Inc.

Tab 10	**SB 466** by **Leek (CO-INTRODUCERS) Burgess, Osgood, Rouson;** Identical to H 00659 Florida Museum of Black History

Tab 11	**CS/SB 578** by **CM, Leek;** Identical to H 06015 Wine Containers

Tab 12	**SB 582** by **Leek;** Identical to H 00717 Unlawful Demolition of Historical Buildings and Structures

Tab 13	**CS/SB 678** by **CM, Truenow;** Similar to CS/CS/H 00139 Pawnbroker Transaction Forms

Tab 14	**CS/SB 806** by **JU, Yarborough;** Identical to CS/H 01173 Florida Trust Code

Tab 15	**CS/SB 948** by **JU, Bradley;** Compare to CS/H 01015 Flood Disclosures

625674	D	S	L	RC, Bradley	Delete everything after	03/31 09:04 AM

Tab 16	**CS/SB 1058** by **GO, Gruters;** Similar to CS/H 00549 Gulf of America

Tab 17	**CS/SB 1168** by **ACJ, Leek;** Similar to CS/H 00663 Installation or Use of Tracking Devices or Applications

Tab 18	**CS/SB 1198** by **CJ, DiCeglie;** Similar to CS/H 01007 Fraudulent Use of Gift Cards

Tab 19	**SB 1228** by **McClain;** Identical to H 00691 Spring Restoration

Tab 20	**SB 1286** by **Grall (CO-INTRODUCERS) Sharief;** Similar to H 01191 Harming or Neglecting Children

Tab 21	**SB 1318** by **Grall (CO-INTRODUCERS) Davis;** Identical to H 00501 Hands-free Driving

639304	A	S	RC, Grall	Delete L.166 - 251:	03/31 08:30 AM
860910	A	S	RC, Grall	Delete L.301:	03/31 08:31 AM

Tab 22	**SB 1370** by **Trumbull;** Ambulatory Surgical Centers

The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

RULES
Senator Passidomo, Chair
Senator Jones, Vice Chair

MEETING DATE: Tuesday, April 1, 2025
TIME: 9:00 a.m.—12:00 noon
PLACE: *Pat Thomas Committee Room,* 412 Knott Building

MEMBERS: Senator Passidomo, Chair; Senator Jones, Vice Chair; Senators Avila, Berman, Boyd, Bradley, Brodeur, Burgess, Burton, Davis, DiCeglie, Gaetz, Garcia, Gruters, Harrell, Hooper, Ingoglia, Martin, Osgood, Pizzo, Rodriguez, Rouson, Simon, Trumbull, and Wright

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	**SB 14** Jones (Identical H 6519)	Relief of the Estate of Peniel Janvier by the City of Miami Beach; Providing for the relief of the Estate of Peniel Janvier by the City of Miami Beach; providing for an appropriation to compensate the Estate of Peniel Janvier for damages sustained as a result of the negligence of the City of Miami Beach; providing a limitation on the payment of compensation and attorney fees, etc. SM JU 03/19/2025 Favorable CA 03/25/2025 Favorable RC 04/01/2025	
2	**SB 20** Burgess (Identical H 6529)	Relief of J.N., a Minor, by Hillsborough County; Providing for the relief of J.N., a minor, by Hillsborough County; providing an appropriation to Stephany Grullon, as parent and guardian of J.N., to compensate J.N. for injuries and damages she sustained as a result of the negligence of Hillsborough County in maintaining sidewalks and culvert systems; providing a limitation on compensation and the payment of certain fees and costs, etc. SM JU 03/19/2025 Favorable CA 03/25/2025 Favorable RC 04/01/2025	
3	**CS/SB 68** Health Policy / Martin (Similar CS/H 229)	Health Facilities Authorities; Revising the definition of the term “health facility” to include other entities and associations organized not for profit; revising the powers of health facilities authorities to include the power to issue certain loans and execute related loan agreements; specifying requirements for projects financed by loan agreements issued by a health facilities authority, etc. CA 03/03/2025 Favorable HP 03/25/2025 Fav/CS RC 04/01/2025	

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	**CS/SB 172** Health Policy / Burton (Similar H 1341)	Health Care Practitioner Specialty Titles and Designations; Providing circumstances under which the Department of Health may issue a notice to cease and desist and pursue other remedies upon finding probable cause; prohibiting the use of specified titles and designations by health care practitioners not licensed as physicians or osteopathic physicians, as applicable, with an exception; providing that the use of such titles and designations constitutes the unlicensed practice of medicine or osteopathic medicine, as applicable; authorizing the department to pursue specified remedies for such violations; specifying specialist titles and designations that physicians and osteopathic physicians, respectively, are prohibited from using unless they have received formal recognition by the appropriate recognizing agency for such specialty certifications, etc. HP 03/25/2025 Fav/CS RC 04/01/2025	
5	**CS/CS/SB 184** Appropriations Committee on Transportation, Tourism, and Economic Development / Community Affairs / Gaetz (Compare CS/H 247, H 943)	Affordable Housing; Requiring, rather than authorizing, local governments to adopt an ordinance to allow accessory dwelling units in certain areas; authorizing a local government to provide a density bonus incentive to landowners who make certain real property donations to assist in the provision of affordable housing for military families; requiring the Office of Program Policy Analysis and Government Accountability to evaluate the efficacy of using mezzanine finance and the potential of tiny homes for specified purposes, etc. CA 02/18/2025 Fav/CS ATD 03/11/2025 Fav/CS RC 04/01/2025	
6	**CS/CS/SB 248** Judiciary / Education Pre-K - 12 / Simon (Compare CS/CS/H 151)	Student Participation in Interscholastic and Intrascholastic Extracurricular Sports; Providing that an activity or a sport must meet specified requirements; specifying conditions for a home education student to participate in interscholastic athletics; revising the criteria a private school student must meet to participate in a sport at a Florida High School Athletic Association (FHSAA) member school, etc. ED 03/11/2025 Fav/CS JU 03/19/2025 Fav/CS RC 04/01/2025	

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	**CS/CS/SB 268** Community Affairs / Governmental Oversight and Accountability / Jones (Compare H 789)	Public Records/Congressional Members and Public Officers; Providing exemptions from public records requirements for the partial home addresses and telephone numbers of current congressional members and public officers and their spouses and adult children and the names, home addresses, telephone numbers, and dates of birth of, and the names and locations of schools and day care facilities attended by, the minor children of such congressional members and public officers; providing for future legislative review and repeal of the exemptions; providing a statement of public necessity, etc. GO 02/18/2025 Fav/CS CA 03/25/2025 Fav/CS RC 04/01/2025	
8	**CS/CS/SB 304** Judiciary / Children, Families, and Elder Affairs / Sharief (Similar CS/H 511)	Specific Medical Diagnoses in Child Protective Investigations; Providing an exception to the requirement that the Department of Children and Families immediately forward certain allegations to a law enforcement agency; requiring Child Protection Teams to consult with a licensed physician or advanced practice registered nurse when evaluating certain reports; authorizing, under a certain circumstance, a parent or legal custodian from whom a child was removed to request specified examinations of the child, etc. CF 03/12/2025 Fav/CS JU 03/25/2025 Fav/CS RC 04/01/2025	
9	**CS/CS/SB 312** Governmental Oversight and Accountability / Education Postsecondary / Gaetz (Compare H 179)	Florida Institute for Human and Machine Cognition, Inc.; Requiring the board of directors of the Florida Institute for Human and Machine Cognition, Inc., rather than the Board of Governors, to authorize the creation of a subsidiary of the corporation; revising the composition of the board of directors of the corporation; authorizing subsidiaries of the corporation to enter into certain affiliation agreements, etc. HE 02/18/2025 Temporarily Postponed HE 03/10/2025 Fav/CS GO 03/25/2025 Fav/CS RC 04/01/2025	

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
10	**SB 466** Leek (Identical H 659)	Florida Museum of Black History; Providing legislative intent; establishing the Florida Museum of Black History Board of Directors; prohibiting specified members of the board from holding state or local elective office while serving on the board; requiring that the board work jointly with the Foundation for the Museum of Black History, Inc., etc. CA 03/11/2025 Favorable AEG 03/26/2025 Favorable RC 04/01/2025	
11	**CS/SB 578** Commerce and Tourism / Leek (Identical H 6015, Compare H 161)	Wine Containers; Revising an exception to the maximum allowable capacity for an individual container of wine sold in this state, etc. RI 03/12/2025 Favorable CM 03/25/2025 Fav/CS RC 04/01/2025	
12	**SB 582** Leek (Identical H 717)	Unlawful Demolition of Historical Buildings and Structures; Authorizing a code enforcement board or special magistrate to impose a fine that exceeds certain limits for the unlawful demolition of certain historical buildings or structures under certain circumstances; providing that such fine may not exceed a certain percentage of just market valuation, etc. CA 03/11/2025 Favorable GO 03/25/2025 Favorable RC 04/01/2025	
13	**CS/SB 678** Commerce and Tourism / Truenow (Similar CS/CS/H 139)	Pawnbroker Transaction Forms; Authorizing pawnbroker transaction forms to be in digital or printed formats; authorizing a pawnbroker to use either format; revising recordkeeping requirements, etc. CM 03/10/2025 Fav/CS AEG 03/26/2025 Favorable RC 04/01/2025	
14	**CS/SB 806** Judiciary / Yarborough (Identical CS/H 1173)	Florida Trust Code; Specifying circumstances in which the Attorney General has the exclusive authority to represent certain interests relating to a charitable trust having its principal place of administration in this state; prohibiting certain public officers of another state from asserting such rights, etc. JU 03/12/2025 Fav/CS ACJ 03/24/2025 Favorable RC 04/01/2025	

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
15	**CS/SB 948** Judiciary / Bradley (Compare CS/H 1015)	Flood Disclosures; Requiring a landlord of residential real property to provide specified information to a prospective tenant at or before the time the rental agreement is executed; providing that if a landlord fails to disclose flood information truthfully and a tenant suffers substantial loss or damage, the tenant may terminate the rental agreement by giving a written notice of termination to the landlord within a specified timeframe; requiring a developer of a residential condominium unit to provide specified information to a prospective purchaser at or before the time the sales contract is executed; requiring a park owner of a mobile home park to provide specified information to a prospective lessee at or before the time the rental agreement is executed, etc. JU 03/12/2025 Fav/CS RI 03/25/2025 Favorable RC 04/01/2025	
16	**CS/SB 1058** Governmental Oversight and Accountability / Gruters (Similar CS/H 549)	Gulf of America; Requiring state agencies to update geographic materials to reflect the new federal designation of the “Gulf of Mexico” as the “Gulf of America”; requiring that specified materials and collections adopted or acquired by district school boards and charter school governing boards on or after a specified date reflect the new federal designation of the “Gulf of Mexico” as the “Gulf of America”, etc. GO 03/11/2025 Fav/CS AED 03/24/2025 Favorable RC 04/01/2025	
17	**CS/SB 1168** Appropriations Committee on Criminal and Civil Justice / Leek (Similar CS/H 663)	Installation or Use of Tracking Devices or Applications; Providing enhanced criminal penalties for a person who, to commit or facilitate the commission of a dangerous crime, knowingly installs or places a tracking device or tracking application on another person’s property without consent or uses such a device or application to determine a person’s or their property’s location or movement without consent, etc. CJ 03/11/2025 Favorable ACJ 03/24/2025 Fav/CS RC 04/01/2025	

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
18	**CS/SB 1198** Criminal Justice / DiCeglie (Similar CS/H 1007)	Fraudulent Use of Gift Cards; Providing criminal penalties for persons who, with the intent to defraud, commit specified prohibited acts related to gift cards; providing criminal penalties for persons who, with the intent to defraud, use for certain purposes gift cards or gift card redemption information; providing enhanced criminal penalties if the value of such violation exceeds a specified amount, etc. CJ 03/11/2025 Fav/CS ACJ 03/24/2025 Favorable RC 04/01/2025	
19	**SB 1228** McClain (Identical H 691)	Spring Restoration; Authorizing certain domestic wastewater treatment facilities to request the incorporation of reclaimed water projects identified in Outstanding Florida Springs recovery or prevention strategies; requiring the Department of Environmental Protection to approve such requests within a certain period of time if certain conditions are met, etc. EN 03/11/2025 Favorable RI 03/25/2025 Favorable RC 04/01/2025	
20	**SB 1286** Grall (Similar H 1191)	Harming or Neglecting Children; Revising the definition of the term “harm” as it relates to a child’s health or welfare; revising the definition of the term “neglect of a child”, etc. CF 03/19/2025 Favorable ACJ 03/24/2025 Favorable RC 04/01/2025	
21	**SB 1318** Grall (Identical H 501)	Hands-free Driving; Prohibiting a person from operating a motor vehicle while using a wireless communications device in a handheld manner; providing an exception; requiring that sustained use of a wireless communications device by a person operating a motor vehicle be conducted through a hands-free accessory until such use is terminated; revising penalty provisions relating to the use of wireless communications devices in a handheld manner in certain circumstances, etc. TR 03/12/2025 Favorable ATD 03/26/2025 Favorable RC 04/01/2025	

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
22	**SB 1370** Trumbull	Ambulatory Surgical Centers; Providing requirements for issuance, denial, suspension, and revocation of ambulatory surgical center licenses; requiring the Agency for Health Care Administration to make or cause to be made specified inspections of licensed facilities; requiring the agency to coordinate periodic inspections to minimize costs and disruption of services; providing that specified provisions govern the design, construction, erection, alteration, modification, repair, and demolition of licensed facilities; requiring licensed facilities to establish an internal risk management program; providing certain investigative and reporting requirements for internal risk managers relating to the investigation and reporting of allegations of sexual misconduct or sexual abuse at licensed facilities, etc. HP 03/18/2025 Favorable AHS 03/26/2025 Favorable RC 04/01/2025	

Other Related Meeting Documents

THE FLORIDA SENATE

SPECIAL MASTER ON CLAIM BILLS

Location
409 The Capitol

Mailing Address
404 South Monroe Street
Tallahassee, Florida 32399-1100
(850) 487-5229

DATE	COMM	ACTION
3/14/25	SM	Favorable
3/19/25	JU	Favorable
3/24/25	CA	Favorable
3/31/25	RC	Pre-meeting

March 14, 2025

The Honorable Ben Albritton
President, The Florida Senate
Suite 409, The Capitol
Tallahassee, Florida 32399-1100

Re: **SB 14** – Senator Jones
HB 6519 – Representative Porras
Relief of Estate of Peniel Janvier by the City of Miami Beach

SPECIAL MASTER'S FINAL REPORT

THIS IS AN UNCONTESTED CLAIM BILL FOR $1,700,000 IN ACCORDANCE WITH A CONSENT JUDGMENT RENDERED BY THE CIRCUIT COURT. THE ESTATE OF PENIEL JANVIER SEEKS DAMAGES FROM THE CITY OF MIAMI BEACH FOR WRONGFUL DEATH CAUSED BY THE NEGLIGENT OPERATION AND SUPERVISION OF A CITY-OWNED SWIMMING POOL.

FINDINGS OF FACT:

The Incident

On August 16, 2022, Peniel Janvier, a 28-year-old youth camp counselor, was attending an end-of-summer celebration for the youth camp at the Scott Rakow Youth Center Pool, owned and operated by the City of Miami Beach.[1] Although off duty, he chose to attend out of his dedication to the children he mentored.

Surveillance footage shows that a child playfully pushed Janvier into the pool, continuing an earlier pattern of lighthearted pushing in the shallow end. However, this time, Janvier landed in water too deep for him to stand, causing him

[1] Claimant's Ex. 1, Surveillance Video; Claimant's Ex. 2, Investigative Reports; Claimant's Ex. 5, Discovery; Claimant's Ex. 6, Pleadings.

to struggle for several minutes before becoming fully submerged. He remained underwater for approximately ten minutes.[2] Investigations by the City of Miami Beach and the police department determined that Janvier's death was not the result of foul play.[3]

An internal review by the City of Miami Beach found that Lifeguard Adrian Calderon violated the City's no-phone policy and failed to observe Janvier drowning.[4] For over ten minutes, Calderon remained distracted by his cell phone, failing to scan the pool as Janvier struggled and other children attempted to rescue him.[5]

No supervisor was present, and, contrary to industry standards, only two of the four designated lifeguard chairs were staffed, despite the presence of numerous weak swimmers.[6] Additionally, the City failed to implement proper zone surveillance assignments, which are standard safety practices for public pools.[7]

Janvier was eventually pulled from the water, but he was unresponsive by the time he was rescued.[8]

Emergency responders performed CPR before transporting Janvier to Mount Sinai Hospital, where he was placed on ventilator support.[9]

Janvier was declared brain dead on August 23, 2022, and removed from life support on August 26, 2022.[10]

Medical Findings

The Medical Examiner ruled the cause of death as drowning.[11]

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[2] Claimant's Ex. 1, Surveillance Video; Claimant's Ex. 2, Investigative Reports.
[3] Claimant's Ex. 2, Investigative Reports.
[4] January 29, 2025, Special Master Hearing; Claimant's Ex. 5, Discovery: RFP Responsive Docs.
[5] Claimant's Ex. 1, Surveillance Video; Claimant's Ex. 5, Discovery: KG Incident Report Updated.
[6] Claimant's Ex. 1, Surveillance Video; Claimant's Ex. 5, Discovery.
[7] January 29, 2025, Special Master Hearing, Exhibits Slides 24 through 29, and Statement of Douglas McCarron, Esq.; American Red Cross, *Lifeguarding Manual*, *available at* https://www.redcross.org/content/dam/redcross/atg/PDFs/Take_a_Class/Lifeguarding_PM_sample_chapter-2012.pdf (last visited Mar. 13, 2025)
[8] Claimant's Ex. 5, Discovery: Case Report 2022-8851.
[9] *Id*.
[10] *Id*.
[11] Claimant's Ex. 11, Medical Examiner's Report.

Autopsy reports confirm cerebral edema, hypoxia, and extensive lung congestion, consistent with prolonged oxygen deprivation.[12]

Janvier had no pre-existing medical conditions that contributed to his death.[13]

Impact on the Family

The Janvier family has endured extreme emotional suffering following Janvier's tragic and preventable death.[14] The financial and psychological toll of this tragedy has resulted in counseling needs and long-term hardship for the surviving family members.

His parents, Nicole Mathurin and Lucmanne Janvier, have expressed profound grief, struggling with the permanent loss of their son.[15]

Janvier was known for his kindness, mentorship, and contributions to the community, making his absence even more devastating to those who knew him.[16]

The loss has caused significant psychological and emotional distress to his immediate family, leading to profound lifestyle changes and difficulties in coping with their grief. His mother has undergone extensive counseling, yet her condition has shown no improvement. His father credibly testified to experiencing permanent, daily anguish, underscoring the enduring emotional toll of Janvier's death.[17]

LITIGATION HISTORY:

The Estate of Peniel Janvier sued the City of Miami Beach on March 22, 2023, in the Eleventh Circuit Court in and for Miami-Dade County, alleging wrongful death due to negligence.

On June 11, 2024, the parties settled for $2,000,000, and the court rendered a consent judgment incorporating the terms of the agreement.

[12] Claimant's Ex. 11, Medical Examiner's Report.
[13] Claimant's Ex. 11, Medical Examiner's Report.
[14] Testimonies of Nicole Mathurin and Daniel and Lucmanne Janvier, January 29, 2025, Special Master Hearing.
[15] *Id*.
[16] *Id*.
[17] *Id*.

Consistent with section 768.28, of the Florida Statutes, $300,000 has been paid, and the remaining $1.7 million is contingent upon legislative approval. The City has reserved $1.7 million to pay this claim.[18]

CONCLUSIONS OF LAW:

A *de novo* hearing was held as the Legislature is not bound by settlements or jury verdicts when considering a claim bill, passage of which is an act of legislative grace.

Section 768.28, of the Florida Statutes, waives sovereign immunity for tort liability up to $200,000 per person and $300,000 for all claims or judgments arising out of the same incident. Sums exceeding this amount are payable by the State and its agencies or subdivisions by further act of the Legislature.

In this matter, the Estate of Peniel Janvier alleges that the City of Miami Beach was negligent in the operation and supervision of the Scott Rakow Youth Center Pool, resulting in the wrongful death of Peniel Janvier. The City of Miami Beach, as the entity responsible for pool operations and staffing, is liable for the negligent actions of its employees who failed to monitor the pool and respond in a timely manner.

After completing its investigation, multiple reports confirmed that lifeguard Adrian Calderon was distracted by his phone and failed to intervene as Janvier struggled in the water. Surveillance footage and eyewitness testimony established that Janvier was visibly in distress for several minutes before assistance was provided. The City of Miami Beach admitted liability and agreed to a judgment in favor of the Estate of Peniel Janvier for the sum of $2 million.

No evidence suggests that Janvier contributed to his drowning or failed to exercise due care.

Negligence

There are four elements to a negligence claim: (1) duty – where the defendant has a legal obligation to protect others against unreasonable risks; (2) breach – which occurs when the defendant has failed to conform to the required standard of conduct; (3) causation – where the defendant's conduct is

[18] January 29, 2025, Special Master Hearing, Statement of Henry Hunnefeld, Esq.

foreseeably and substantially the cause of the resulting damages; and (4) damages – actual harm.[19]

Duty

A municipality operating a public swimming pool has a duty to operate the facility safely.[20] "Whenever one undertakes to provide a service to others, whether one does so gratuitously or by contract, the individual who undertakes to provide the service—i.e., the "undertaker"—thereby assumes a duty to act carefully and to not put others at an undue risk of harm.[21]

By operating and staffing the Scott Rakow Youth Center Pool, the City of Miami Beach assumed a duty of care to provide properly trained and attentive lifeguards to prevent foreseeable harm.

Breach

The City of Miami Beach breached this duty in multiple ways:

- Lifeguard Adrian Calderon failed to maintain proper supervision, as confirmed by surveillance footage and the City's internal investigation. Calderon was distracted by his cell phone, violating the City's no-phone policy and standard safety protocols.[22]
- The City of Miami Beach failed to implement basic lifeguard surveillance protocols, leading to inadequate supervision of swimmers. The absence of properly assigned lifeguard zones contributed to the failure to prevent this drowning.[23]
- The City failed to enforce safety policies and adequately train its staff, further increasing the risk of harm.[24]

These failures directly compromised swimmer safety, allowing Janvier's distress to go unnoticed for an extended period.

Causation

The City's failure to properly train and enforce lifeguard safety policies directly resulted in Janvier's prolonged struggle and

[19] *Williams v. Davis*, 974 So.2d 1052, at 1056–1057 (Fla. 2007).
[20] *Florida Dept. of Nat. Res. v. Garcia*, 753 So. 2d 72, 75 (Fla. 2000).
[21] *Clay Elec. Co-op., Inc. v. Johnson*, 873 So. 2d 1182, 1186 (Fla. 2003).

[22] Claimant's Ex. 1, Surveillance Video; January 29, 2025, Special Master Hearing Exhibits Slides 5 and 21.
[23] January 29, 2025, Special Master Hearing, Exhibits Slides 24 through 29, and Statement of Douglas McCarron, Esq.
[24] *Id*.

eventual drowning. Florida courts recognize that liability arises when inaction causes preventable harm: "Tort law provides a remedy for a person who suffers an injury caused by the action or failure to act of another."[25]

The City's inaction was the foreseeable and direct cause of his death.[26]

Damages
As a direct result of the City's negligence, Janvier suffered fatal drowning, leading to substantial financial and emotional loss for his surviving family and estate. The Standard Jury Instructions for wrongful death damages provide guidance for compensating non-economic losses, including pain and suffering and lost support and services.[27]

Each parent of an adult child in a wrongful death case is entitled to recover for mental pain and suffering if there are no other survivors.[28] Since Janvier was unmarried with no children, his parents are entitled to recover these damages.

The requested $1.7 million settlement is justified based on the severity of the incident and comparable wrongful death verdicts.[29]

ATTORNEY FEES:

Under Florida Statutes, attorney fees for claim bills are capped at 25% of the total recovery amount.

In this case, attorney fees will be limited to $425,000, which is 25% of the $1,700,000 requested amount.

Counsel for the claimant has certified, through affidavit, compliance with this statutory limit.[30]

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[25] McKinley v. Gualtieri, 338 So. 3d 429, 433–434 (Fla. 2d DCA 2022).
[26] Claimant's Ex. 5, Discovery: Case Report 2022-8851.
[27] Fla. Std. Jury Instr. (Civ.) 502.2(f) and (g).
[28] Section 768.21(4), F.S.
[29] Nagib v. CTF Orlando Corp., *Verdict Form*, Case No. 2002-CA-7395 (Fla. 9th Jud. Cir. Ct. Mar. 9, 2004) (Jury verdict of $5.52 million); McPherson v. United States, *Verdict Form*, Case No. 1:08-cv-23108 (S.D. Fla. Sept. 30, 2011) (Jury verdict of $4.35 million); Bogle v. Orange County, *Verdict Form*, Case No. 2015-CA-002821-O (Fla. 9th Jud. Cir. Ct. Apr. 7, 2022) (Jury verdict of $5.03 million); Parker v. State of Florida Dep't of Transp., *Verdict Form*, Case No. 2020-CA-002294 (Fla. 2d Jud. Cir. Ct. June 23, 2022) (Jury verdict of $6.25 million); Monk v. Burlington Cnty. Special Servs. Sch. Dist., *Verdict Form*, Case No. BUR-L-003869-02 (N.J. Super. Ct. Law Div. Jan. 2006) (Jury verdict of $1.8 million).
[30] *Affidavit of Claimant's Counsel to Senate and House Special Masters*, January 23, 2025.

RECOMMENDATIONS: Considering the clear evidence of negligence, comparable jury awards, and the City's agreement to the settlement, I find that the City of Miami Beach was negligent, and the amount sought by claimants on behalf of the Estate of Peniel Janvier is reasonable.

I recommend SB 14 FAVORABLY.

Respectfully submitted,

Alexander Brick
Senate Special Master

cc: Secretary of the Senate

By Senator Jones

34-00080-25 202514__

A bill to be entitled

An act for the relief of the Estate of Peniel Janvier by the City of Miami Beach; providing for an appropriation to compensate the Estate of Peniel Janvier for damages sustained as a result of the negligence of the City of Miami Beach; providing a limitation on the payment of compensation and attorney fees; providing an effective date.

WHEREAS, on August 16, 2022, Peniel Janvier drowned after being pushed into the community pool at the Scott Rakow Youth Center in the City of Miami Beach, and

WHEREAS, the lifeguards and personnel of the City of Miami Beach failed to observe and respond to Mr. Janvier being pushed into the community pool, and

WHEREAS, the Estate of Peniel Janvier has alleged, through a lawsuit filed on March 22, 2023, that the negligence of the City of Miami Beach, through its lifeguards and personnel, was the proximate cause of the death of Mr. Janvier, and

WHEREAS, Nicole Mathurin, Mr. Janvier's mother, and Lucmanne Janvier, Mr. Janvier's father, have suffered significant financial damages due to the loss of Peniel Janvier's net income accumulation in the past and future, and extreme mental anguish and suffering as a result of the loss of their son, and

WHEREAS, the Estate of Peniel Janvier and the City of Miami Beach reached a settlement in the amount of $2 million, and

WHEREAS, pursuant to the settlement agreement between the parties, the plaintiff's claim will be partially satisfied by

34-00080-25 202514__

the City of Miami Beach paying the amount of $300,000 to the Estate of Peniel Janvier, and

WHEREAS, pursuant to the settlement, the claim shall be considered fully satisfied by the City of Miami Beach paying an additional $1.7 million to the Estate of Peniel Janvier, as authorized by the Florida Legislature through a claim bill, NOW, THEREFORE,

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

Section 1. The facts stated in the preamble to this act are found and declared to be true.

Section 2. The City of Miami Beach is authorized and directed to appropriate from funds not otherwise encumbered and to draw a warrant in the sum of $1.7 million payable to the Estate of Peniel Janvier as compensation for injuries and damages sustained.

Section 3. The amount paid by the City of Miami Beach, pursuant to s. 768.28, Florida Statutes, and the amount awarded under this act are intended to provide the sole compensation for all present and future claims arising out of the factual situation described in this act which resulted in the death of Peniel Janvier and damages to the Estate of Peniel Janvier. The total amount paid for attorney fees relating to this claim may not exceed 25 percent of the total amount awarded under this act.

Section 4. This act shall take effect upon becoming a law.

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

THE FLORIDA SENATE

SPECIAL MASTER ON CLAIM BILLS

Location
409 The Capitol

Mailing Address
404 South Monroe Street
Tallahassee, Florida 32399-1100
(850) 487-5229

DATE	COMM	ACTION
3/14/25	SM	Favorable
3/19/25	JU	Favorable
3/24/25	CA	Favorable
3/31/25	RC	Pre-meeting

March 14, 2025

The Honorable Ben Albritton
President, The Florida Senate
Suite 409, The Capitol
Tallahassee, Florida 32399-1100

Re: **SB 20** – Senator Burgess
HB 6529 – Representative Alvarez
Relief of Relief of J.N., a minor, by Hillsborough County

SPECIAL MASTER'S FINAL REPORT

THIS IS A SETTLED CLAIM BILL FOR LOCAL FUNDS IN THE AMOUNT OF $400,000. THIS AMOUNT IS THE REMAINING UNPAID BALANCE OF A $600,000 SETTLEMENT AGREEMENT FOR INJURIES AND DAMAGES CAUSED BY THE ALLEGED NEGLIGENCE OF HILLSBOROUGH COUNTY.

FINDINGS OF FACT:

The Accident

On June 7, 2019, Claimant J.N., an eleven-year-old child, at the time of the incident, was riding her bicycle on a sidewalk owned and operated by Hillsborough County. The Claimant was accompanied by her stepfather, Gabriel Soto. The sidewalk is located along the east side of East Bay Road and adjacent to the East Bay Lakes subdivision in Gibsonton, Florida.

As J.N. was riding her bicycle, her bicycle wheel came into contact with an uneven area of concrete slab sidewalk.[1] causing her to lose control of her bicycle and travel down the

[1] Special Master's Hearing at 0:11:02-11:04; 0:12:34-0:13:01; See also, Claimant's exhibit 2.

steep slope located next to the sidewalk. J.N., while wearing a helmet, fell face-forward into an open drainage ditch and struck a concrete drainage culvert with her face.

Evidence was presented that the County received notice of the uneven sidewalk prior to the Claimant's injury on June 7, 2019. Testimony was admitted that service requests regarding that portion of the sidewalk were entered into the County's MaintStar work order tracking software system on February 13, 2018.[2]

The impact caused significant lacerations, sliced through portions of her gums, fractured her jaw, and avulsed multiple adult teeth. Mr. Soto observed J.N. lying on the ground in a state of shock with a large open laceration to her face. She was bleeding profusely from her head, face, and mouth. Mr. Soto picked J.N. up and took her back to their home.

J.N. was immediately taken to the emergency room at St. Joseph's Hospital where she was admitted and underwent a CT scan which showed a fracture of the nasal bone, fracture of the maxilla and fracture of superior alveolus. J.N. remained in the hospital for 3 days undergoing extensive surgery to her face including her mouth, lip, nose, and jaw. Following discharge from the hospital. She had additional oral surgery and medical care and treatment in the weeks and months that followed.[3]

On June 10, 2019, J.N. was seen for a consult regarding facial trauma. She presented with facial swelling and discomfort.

On June 14, 2019, J.N. underwent her second surgery consisting of a closed reduction of her nasal fracture.

On February 20, 2021, J.N. was seen by a Pediatric Epilepsy and Neurology Specialist as a result of headaches that had started five to six months previously, which was shortly after the accident. She was noted to have headaches as frequently as once or twice a week, and sometimes every two weeks. The pain was described as occipital and felt like pounding, throbbing and, aching pain. The headaches are

[2] Hillsborough County Response to RTP, filed Dec. 1, 2021, Work Request #WR00196599 created Feb. 13, 2018, Bates stamped "HC0007."
[3] Medical Records Summary, June 7, 2019. (Claimant's Exhibit #3).

associated with light and sound sensitivity along with nausea.

She reported difficulty sleeping. J.N. was placed on rizatriptan and clonidine. She reported no prior medical history of migraine headaches.

J.N.'s Current Condition

On March 16, 2022, J.N. had a consultation with the oral surgeon at Moffett Oral Surgery and Dental Implant Center. J.N. was informed that she would need a bone graft. Dr. Moffett expects J.N. to be ready for the bone graft process when she is 16 or 17 years old. She will then start the process for implants.

J.N. is 16 years old and wears a Maryland bridge. She is preparing for the bone graft. The process will take four to five months to heal before she can go back to her dentist for them to install her crowns.

LITIGATION HISTORY:

Settlement

The Claimant and Hillsborough County have entered into a settlement agreement for a total of $600,000. Claimant has received $200,000 from Hillsborough County and seeks the remaining $400,000.[4]

An order granting the settlement agreement was entered on March 7, 2023.[5]

All proceeds of the settlement agreement are to be paid through a structured settlement/annuity and held in a trust that has been established for the benefit of the Claimant. The proceeds are to be disbursed in accordance with the details of the structured settlement/annuity and terms of the trust.

Claimant's attorney has submitted a future needs analysis based on a treatment plan developed for J.N..[6] The future needs produced an estimated total of lifetime costs to be

[4] Settlement Agreement between Stephany Grullon, parent/guardian of J.N., a minor and Hillsborough County, September 20, 2022, pgs. 1-4 (Claimant's Exhibit 5).
[5] Claimant's supplemental record marked *Settlement Annuity Contract*.
[6] Treatment Plan (Claimant's Exhibit 4).

between $700,000 and $1 million. Claimant's attorney testified that the cost estimate was based on upcoming surgeries, future medical care, past and future pain and suffering, as well as mental anguish.[7]

As part of the agreement, the respondent agreed to not oppose the claim bill.

CLAIM BILL HEARING:

On January 27, 2025, the House and Senate special masters held a half-day *de novo* hearing in the matter of SB 20 (2025), relief of J.N., a minor, by Hillsborough County.

Both parties stipulated to all exhibits submitted into evidence by the Claimant. Respondent's attorney made it clear that Hillsborough County was in support of the claim bill and would not be presenting any evidence counter to the Claimant or settlement agreement.[8] Both parties cooperated fully with the House and Senate and responded to all requests for information.[9]

Claimant's Case-in-Chief

Claimant's attorney presented a narrative recitation of the facts as stipulated by the parties detailing the Claimant's life before the accident, the accident, the details of her life after the accident, injuries, recovery, and the related elements of a negligence claim.[10]

Witness Gabriel Soto

Mr. Soto testified that the Claimant was an experienced bike rider and was wearing a helmet. He testified that this was not a path that the two had previously traveled or with which they were familiar. Mr. Soto also testified that he was riding four to five feet behind the Claimant and witnessed her hit an uneven surface that sent her down the steep slope and into the drainage ditch. He testified that when he reached her, she was awake but in shock and may have lost consciousness at the scene. The Claimant's nose was broken, lip was split open, and teeth were missing. He testified that he immediately

[7] Special Master Hearing at 43:25:00-46:10:00; 1.38:26-1:40:00.
[8] *Id*. at 2:32:00-2:35:00.
[9] *Id*. at 1:50:00-2:05:00.
[10] *Id*. at 7:24:00-11:24:00.

rushed the Claimant to their house, and she was transported to the hospital.[11]

Witness Stephany Grullion

Ms. Grullion, parent and natural guardian of the Claimant, testified regarding J.N.'s medical treatment. Ms. Grullion testified that the Claimant has headaches that were reported one month after the accident. The Claimant visited a pediatric neurologist who determined that the headaches were due to the collision. Ms. Grullion also testified that the Claimant still had the headaches twice a week but she no longer takes prescription medication; rather, uses over-the-counter medication for relief.[12]

Claimant still experiences numbness on one side of her lip, as well as a lip twitch. The Claimant has nose sensitivity and cannot wear her glasses because the weight of the glasses bothers her.

Ms. Grullion testified that the Claimant's medical expenses were paid by insurance.[13]

Witness J.N.

J.N. testified that since the accident, she has developed many insecurities. She feels uncomfortable speaking because her lip twitches, and she avoids smiling due to her dissatisfaction with her teeth and the scar on her lip..[14]

J.N. testified that she still experiences facial numbness and that she still frequently has headaches. She testified that she has missed school due to migraines but that she does well in school.[15] She is unable to play sports or do extracurricular activities because the physical activity causes her to have headaches.[16] J.N. testified that she has migraines three to four times per week with noise and light sensitivity.

[11] *Id*. at 11:54:00-17:48:00.
[12] *Id*. at 1:00:00-1:04:28.
[13] *Id*. at 1:10:19-1:10:44.
[14] *Id*. at 1:15:07-1:19:37.
[15] *Id*. at 1:31:00-1:33:00.
[16] *Id*. at 1:16:00-1:19:07.

J.N. also testified that she has been wearing the Maryland bridge for three years and that it causes her discomfort when food gets stuck in it. She stated that it also hurts her gums.[17]

Respondent's Case-in-Chief

The Respondent did not present or contest any evidence, theories, or arguments.[18]

Respondent indicated that if the claim bill were to pass, payout to the Claimant was structured to have less of a financial impact on the county's budget, by structuring payments in increments to be paid over the next five (5) years.[19]

The county does not have any excess insurance and is self-insured.[20]

CONCLUSIONS OF LAW:

The claim bill hearing was held on January 27, 2025, was a *de novo* proceeding to determine liability in a negligence claim for damages suffered by the Claimant and, if negligence is found, whether the amount of the claim is reasonable. This report is based on evidence presented to the special master prior to, during, and after the hearing. The Legislature is not bound by settlements or jury verdicts when considering a claim bill, the passage of which is an act of legislative grace.

Sovereign immunity limits the amount of damages a Claimant can collect from the state or any of its agencies as a result of its negligence or the negligence of its employees to $200,000 for one individual and $300,000 for all claims or judgments arising out of the same incident. Funds in excess of this limit may only be paid upon approval of a claim bill by the Legislature. Thus, the Claimant will not receive the full amount of the settlement unless the Legislature approves this claim bill authorizing the additional payment.[21]

In this matter, the Claimant alleges negligence on behalf of Hillsborough County.

[17] *Id*. at 1:21:42-1:22:29.
[18] *Id*. at 1:52:09-1:57:20.
[19] *Id*. at 2:00:00-2:03:37; *see also*, Claimant's supplemental exhibit titled Schedule of Benefits and Payees.
[20] *Id*. at 2:03:37-2:04:44.
[21] Section 768.28, F.S.

The plaintiff bears the burden of proving, by the greater weight of the evidence, that the defendant's action was a breach of duty that the defendant owed to the plaintiff. The "greater weight of the evidence" burden of proof "means the more persuasive and convincing force and effect of the entire evidence in the case."[22]

"Negligence is described as the failure to use reasonable care, which is the care that a reasonably careful person would use under like circumstances";[23] and "a legal cause of loss, injury or damage if it directly and in natural and continuous sequence produces or contributes substantially to producing such loss, injury or damage, so that it can reasonably be said that, but for the negligence, the loss, injury or damage would not have occurred."[24]

To establish liability, a Claimant must prove four (4) elements, by the greater weight of the evidence:

(1) Duty: where the defendant has a legal obligation to protect others against unreasonable risks.
(2) Breach: which occurs when the defendant has failed to conform to the required standard of conduct.
(3) Causation – where the defendant's conduct is foreseeably and substantially the cause of the resulting damages; and
(4) Damages – actual harm.[25]

In this case, the County's liability depends on whether the County breached its duty of care to Claimant and whether that breach caused her damages.

Duty

Under Florida law, "[W]hile a city is not an insurer of the motorist or the pedestrian who travels its streets and sidewalks, it is responsible, of course, for damages resulting from defects which have been in existence so long that they

[22] Fla. Std. Jury Instr. (Civ.) 401.3, *Greater Weight of the Evidence*.
[23] Florida Civil Jury Instructions, 401.4 – Negligence.
[24] Florida Civil Jury Instructions, 401.12(a) – Legal Cause, Generally.
[25] *Hodges v. United States*, 78 F.4th 1365, 1375 (11th Cir. Aug. 18, 2023); and *Clay Elec. Coop., Inc. v. Johnson*, 873 So.2d 1182, 1185 (Fla. 2003).

could have been discovered by the exercise of reasonable care, and repaired."[26]

A municipality "is required to exercise reasonable diligence in repairing defects after the unsafe condition of the street or sidewalks known or ought to have been known to the officers thereof having authority to act."[27]

In this case, the county does not dispute that it had a duty to use reasonable care in maintaining safe premises, free from dangers to the personal safety of its invitees.[28]

Florida law defines "routine maintenance" required by the county to be performed on the sidewalk, drainage ditch, and culvert as follows:

> (23) "Routine maintenance" means minor repairs and associated tasks necessary to maintain a safe and efficient transportation system. The term includes: pavement patching; shoulder repair; cleaning and repair of drainage ditches, traffic signs, and structures; mowing; bridge inspection and maintenance; pavement striping; litter cleanup; and other similar activities.[29]

There was no evidence presented by the Respondent that challenged or countered the facts as presented above.

Breach

Based on the stipulated facts and exhibits presented by the Claimant, it is evident that Hillsborough County breached its duty of reasonable care by failing to maintain the sidewalk in a safe manner. The County had notice that the sidewalk was badly buckled and uneven. The Claimant's evidence indicates that County employee Juan Olivero Lopez inspected the sidewalk prior to the date of the incident and noted that "the

[26] *Mullins v. City of Miami*, 60 So.2d 174, 176 (Fla. 1952) (citing *City of St. Petersburg v. Roach*, 4 So.2d 367,368 (Fla 1941) (holding "[t]here is no doubt that the injury suffered by the defendant in error was chargeable to a defect in the sidewalk and it was successfully argued in the trial court that it had been there for sufficient length of time for the city to have become aware of the imperfection and have remedied it")).
[27] *City of Miami Beach v. Quinn*, 5 So.2d 593, 593 (Fla. 1942).
[28] Hillsborough County Answer and Affirmative Defenses Pleading, 3.
[29] Section 334.03, F.S.

section of sidewalk should have been removed and replaced prior to this incident."[30]

There was no evidence presented by the Respondent that challenged or countered the facts as presented above.

Causation

Negligence is "a legal cause of loss, injury or damage if it directly and in natural and continuous sequence produces or contributes substantially to producing such loss, injury or damage, so that it can reasonably be said that, but for the negligence, the loss, injury or damage would not have occurred."[31]

The Claimant presented evidence that the buckled sidewalk was the direct and precipitating cause of her injuries, and that it was a foreseeable outcome from the risk produced by the County's failure to maintain the sidewalk. But for Hillsborough County's negligence the accident would not have occurred, and the Claimant would not have been severely injured.[32]

Comparative Negligence

Comparative negligence is the legal theory that a defendant may diminish his or her responsibility to an injured plaintiff by demonstrating that another person, sometimes the plaintiff and sometimes another defendant or even an unnamed party, was also negligent and that negligence contributed to the plaintiff's injuries.

The Claimant presented evidence that the Claimant was wearing a helmet at the time of the accident, was experienced in riding a bicycle, and the bicycle was operationally sound at the time of the accident.[33]

There was no evidence presented by the Respondent that challenged or countered the facts presented above. There was no evidence presented that would attribute any negligence to the Claimant or any other unnamed third party.

[30] Claimant's complaint filed June 28, 2022, 5.; *see also* Claimant's Exhibit 1(Photographs of sidewalk).
[31] Florida Civil Jury Instructions, 401.12(a) –*Legal Cause, Generally*.
[32] Special Master Hearing at 29:25-32:28.
[33] *Id*. at 16:01:00-16:25:00.

Based on the evidence and through review of all relevant material, the undersigned finds that the greater weight of evidence demonstrates that Hillsborough County had a duty of care, which it breached, and that breach was the legal or proximate cause of the accident and responsible for the Claimant's injuries.

Damages

As a result of the accident the Claimant was admitted to the hospital with severe facial trauma. She underwent a CT scan which showed a fracture of the nasal bone, fracture of the maxilla, and fracture of superior alveolus.[34]

The evidence indicated that the Claimant had multiple surgeries to her mouth, lip, nose, and jaw. According to testimony from the Claimant and her mother, Stephany Grullon, the Claimant will need to have a bone graft and surgery for dental implants in the future.

Economic Damages

The Claimant's attorney presented voluminous medical bills and statements. A copy of the annuity contract, settlement agreement and order approving the settlement were provided.[35]

Noneconomic Damages

The Claimant suffered significant noneconomic damages in the form of pain and suffering, mental anguish and loss of enjoyment of life. The Claimant suffers frequent and continual migraines as a result of striking her head on the concrete culvert. In addition to her physical pain, the Claimant experiences low self-esteem and insecurity because of her scars and missing teeth. The Claimant is unable to engage in physical activities that she enjoyed prior to the accident and has insecurities about her appearance and dating. The Claimant testified to having a lip twitch and facial numbness, that she will likely experience for the rest of her life.

[34] Claimant's Exhibit 3 (Claimant's medical records).
[35] Claimant's supplemental record (Annuity contract, Settlement agreement, Order Approving Settlement).

Standard jury instructions provide that, "There is no exact standard" for measuring "[a]ny bodily injury sustained by [a plaintiff] any resulting pain and suffering, disability or physical impairment, disfigurement, mental anguish, inconvenience, or loss of capacity for the enjoyment of life experienced in the past or to be experienced in the future." "[36]

As this was a settlement without the benefit of a jury trial, and because there is no formula or fixed criteria for an award, it is unknown how much a jury might have awarded had this matter gone to trial.[37]

The claimant's attorney submitted evidence that the claimant suffers migraines as a result of the accident. The migraines occur whenever she is active.[38] The claimant testified that she did not suffer migraines prior to the accident and that the migraines are ongoing and frequent in nature.[39]

Counsel for the Claimant speculates that a jury would have awarded a verdict in excess of $1,000.000.

Based on the settlement agreement and the total economic damages, the remaining difference of the settled amount is $400,000.

There was no economic evidence presented by the Respondent to challenge or counter the reports and evidence submitted by the Claimant.

ATTORNEY FEES:

Section 768.28, of the Florida Statutes, limits the Claimant's attorney fees to 25 percent of the total recovery reached by any judgment or settlement in a sovereign immunity claim. The Claimant's attorney has acknowledged this limitation and

[36] Florida Civil Jury Instructions, 501.2a –Personal Injury and Property Damages – Elements.
[37] In *Parrish v. City of Orlando*, 53 So. 3d 1199, 1203, (Fla 5th DCA 2011), the plaintiff and her husband were walking to the Citrus Bowl when she tripped and fell on an uneven sidewalk, seriously injuring her left shoulder. Due to the severity of the injury, the plaintiff had to have shoulder replacement surgery and subsequently developed axillary nerve palsy. At trial, the plaintiff's treating doctor testified that her shoulder injury was permanent and caused by the fall. The city presented no opposing testimony. The jury awarded damages for past medical expenses and future medical expenses, but no award for past or future noneconomic damages. The court determined that the "failure to make an award for future economic damages is unreasonable when there is evidence of permanent injury and a need for treatment in the future." "[W]hen medical evidence on permanence or causation is undisputed, unimpeached, or not otherwise subject to question based on other evidence presented at trial, the jury is not free to simply ignore or arbitrarily reject that evidence and tender a verdict in conflict." *Parrish at 1202.*
[38] Special Master Hearing at 1:24:00-1:25:30.
[39] *Id*.

verified in writing that nothing in excess of 25 percent of the gross recovery will be withheld or paid as attorney and lobbyist fees.

RECOMMENDATIONS: Based upon the foregoing, I recommend that SB 20 be reported FAVORABLY.

Respectfully submitted,

Jovona I. Parker
Senate Special Master

cc: Secretary of the Senate

By Senator Burgess

23-00079-25 202520__

A bill to be entitled

An act for the relief of J.N., a minor, by Hillsborough County; providing an appropriation to Stephany Grullon, as parent and guardian of J.N., to compensate J.N. for injuries and damages she sustained as a result of the negligence of Hillsborough County in maintaining sidewalks and culvert systems; providing a limitation on compensation and the payment of certain fees and costs; providing an effective date.

WHEREAS, on the afternoon of June 7, 2019, J.N., then 11 years of age, was riding her bicycle, accompanied by her mother's fiancé, Gabriel Soto, on a sidewalk located along the east side of East Bay Road and adjacent to the East Bay Lakes subdivision in Gibsonton, and

WHEREAS, the sidewalk is owned and maintained by Hillsborough County, and

WHEREAS, J.N. was wearing her helmet while riding her bicycle when her bicycle wheel hit an uneven area of the concrete slab sidewalk, causing her to lose control of her bicycle and tumble down a steep slope next to the sidewalk, and

WHEREAS, J.N. careened face forward over the bicycle's handlebars into a concrete and corrugated metal drainage culvert pipe and lacerated portions of her gums, fractured her jaw, and avulsed multiple adult teeth, and

WHEREAS, J.N. was rushed to the emergency room at St. Joseph's Hospital, where she underwent a CT scan that revealed fractures of the nasal bone, the maxilla, and the superior

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alveolus, and

WHEREAS, the severity of her injuries required plastic surgery intervention, and on June 8, 2019, J.N. underwent a surgical procedure consisting of exploration and removal of the gingiva impacted into her nasal structures and into the upper maxilla, repair of the midline laceration of her upper lip, and repair of her gingiva and lower lip vermilion, and

WHEREAS, on June 14, 2019, J.N. underwent a second surgery consisting of a closed reduction of her nasal fracture, and

WHEREAS, on February 20, 2021, J.N. was seen by Pediatric Epilepsy and Neurology Specialists due to headaches that she experienced as frequently as once or twice a week and which had first started shortly after the accident, and

WHEREAS, on March 16, 2022, J.N. was seen by an oral surgeon at the Moffett Oral Surgery and Dental Implant Center, during which time she was informed that she would need a bone graft and eventually an implant, and

WHEREAS, J.N. has to wait for her bones to finish growing before Dr. Moffett can proceed with the bone graft, which he expects will be when J.N. is 16 or 17 years old, and

WHEREAS, after J.N. heals from her bone graft, Moffett Oral Surgery and Dental Implant Center will then begin the process for implants and, eventually, crowns, and

WHEREAS, along with the medical treatment and bills associated with this injury, J.N. has suffered intangible and emotional losses, has experienced an extreme loss of self-esteem, and struggles socially with her peers, and

WHEREAS, Hillsborough County was on notice that the same section of sidewalk where J.N. had her accident was in need of

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

repair and replacement as early as October 7, 2015, as evidenced by the filing of a work request order, and

WHEREAS, in 2016, Juan Olivero Lopez, a Hillsborough County maintenance supervisor responsible for sidewalk maintenance, stated that he was directed by the county to inspect the sidewalk, and

WHEREAS, Juan Olivero Lopez further stated that, in response to the work request order, the South Service Unit performed a physical inspection of the sidewalk before the date of the accident, but that repairs to make the sidewalk safe were never performed, and

WHEREAS, the drainage ditch and culvert system located next to the sidewalk were also in need of maintenance and repair, as evidenced by the extensive deterioration of the concrete and corrugated metal drainage culvert pipe, which had become jagged and rusted, and

WHEREAS, Hillsborough County employee William Cox, a civil engineer responsible for drainage culvert replacement and planning, stated that he was not responsible for the maintenance of the culvert, and

WHEREAS, Juan Olivero Lopez stated that, in his capacity as a maintenance supervisor of the South Service Unit, he was not responsible for the maintenance of the culvert, and

WHEREAS, clearly there was a gap in assigning or accepting responsibility for maintenance of the culvert, and the resulting failure to repair the drainage ditch and culvert system, coupled with the failure to repair or replace the sidewalk, contributed to the severity of J.N.'s injuries, and

WHEREAS, J.N.'s parent and guardian, Stephany Grullon, and

Hillsborough County entered into a settlement and release agreement on September 20, 2022, in which the county agreed to pay Stephany Grullon $600,000 to settle all claims, and

WHEREAS, Hillsborough County paid $200,000, the sovereign immunity limit under s. 768.28, Florida Statutes, to Stephany Grullon within 20 days after entering into the settlement and release agreement, and

WHEREAS, Hillsborough County acknowledged and agreed not to oppose a legislative claims bill that would be filed during the 2023 Regular Session of the Legislature or in a subsequent legislative session for the additional $400,000, and

WHEREAS, the $200,000 statutory limit under s. 768.28, Florida Statutes, has been paid to Stephany Grullon, but the balance of $400,000 remains unpaid, NOW, THEREFORE,

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

Section 1. The facts stated in the preamble to this act are found and declared to be true.

Section 2. Hillsborough County is authorized and directed to appropriate from funds of the county not otherwise encumbered and draw a warrant in the sum of $400,000 payable to Stephany Grullon, as parent and guardian of J.N., to be placed in a trust created for the exclusive use and benefit of J.N. for injuries and damages sustained.

Section 3. The amount paid by Hillsborough County pursuant to s. 768.28, Florida Statutes, and the amount awarded under this act are intended to provide the sole compensation for all present and future claims arising out of the factual situation

described in this act which resulted in injuries and damages to J.N. The total amount paid for attorney fees and costs, lobbying fees, and other similar expenses relating to this claim may not exceed 25 percent of the total amount awarded under this act.

Section 4. This act shall take effect upon becoming a law.

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 68
INTRODUCER:	Health Policy Committee and Senator Martin
SUBJECT:	Health Facilities Authorities
DATE:	March 31, 2025
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Shuler	Fleming	CA	**Favorable**
2.	Smith	Brown	HP	**Fav/CS**
3.	Shuler	Yeatman	RC	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 68 amends multiple provisions of Part III of ch. 154, F.S., related to health facilities authorities (authorities). The bill expands the definition of "health facility" to include other entities and associations organized not for profit, including, but not limited to, limited liability companies that are organized as not-for-profit organizations and controlled directly or indirectly by one or more not-for-profit organizations. The bill expands the powers of authorities related to loans, bonds, and other debts used for the purpose of acquiring, constructing, financing, and refinancing projects and specifies requirements for agreements executed for such financing tools.

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

II. Present Situation:

Health Facilities Authorities

Generally

The Health Facilities Authorities Law[1] (the Law) was enacted in 1974, to provide health facilities in each local agency (defined as a county or municipality[2]) with a measure of assistance and an alternate method to enable the health facilities to provide the facilities and structures that

[1] Part III of ch. 154, F.S.
[2] Section 154.205(9), F.S.

are determined to be needed by the community to improve the development and maintenance of the public health.[3]

Health facilities include any private corporation organized not-for-profit and authorized by law to provide:

- Hospital services in accordance with ch. 395, F.S., related to hospital licensing and regulation;
- Nursing home care services in accordance with ch. 400, F.S., related to nursing home and related health care facilities;
- Life care services in accordance with ch. 651, F.S., related to continuing care contracts;
- Services for the developmentally disabled under ch. 393, F.S., related to developmental disabilities;
- Services for the mentally ill under ch. 394, F.S., related to mental health;
- Assisted living services in accordance with ch. 429, F.S., related to assisted care communities;
- Hospice services in accordance with ch. 400, F.S., related to nursing homes and related health care facilities; and
- Independent living facilities and services as part of a retirement community that provides nursing home care services or assisted living services on the same campus.[4]

The Law authorizes a local agency to create an authority if the governing body[5] of the local agency determines there is a need for an authority by adopting an ordinance or resolution.[6] An authority is a public corporation created by s. 154.207, F.S.; or a board, body, commission, or department of a local agency succeeding to the principal functions of the public corporation or to whom the powers and responsibilities authorized by the Law are given by the local agency.[7] The governing body of the local agency is required to appoint five persons, who must be residents of the local agency, as members of the authority to serve staggered terms of 4 years each.[8] Members of the authority are eligible for reappointment and serve without compensation, but are paid for necessary expenses incurred while engaged in the performance of the authority's duties.[9] Costs of employing professionals, staff, and other costs of operating the authority must be paid from funds obtained under the Law.[10]

Any member of the authority who is employed by, or receives income from, a health facility under consideration by the authority may not vote on any matter related to that facility.[11] All meetings of the authority, and its records, books, documents, and papers are open and available to the public in accordance with the Public Meetings Law in s. 286.011, F.S.[12]

[3] Section 154.203, F.S.
[4] Section 154.205(8), F.S.
[5] The governing body means the board, commission, or other governing body of any local agency in which the general legislative powers of such local agency are vested. Section 154.205(7), F.S.
[6] Section 154.207(1), F.S.
[7] Section 154.205(2), F.S.
[8] Section 154.207(4), F.S.
[9] Section 154.207(8), F.S.
[10] *See* s. 154.211, F.S.
[11] Section 154.207(9), F.S.
[12] Section 154.207(7), F.S.

Purpose and Powers of the Authority

The purpose of the authority is to assist health facilities in the acquisition, construction, financing, and refinancing of projects within the geographical limits of the local agency.[13] However, if an authority finds that there will be a benefit or a cost savings to a health facility located within its jurisdiction, it may issue bonds for the health facility to finance projects for the health facility or for another not-for-profit corporation under common control with a health facility that is located outside the geographical limits of the local agency or outside the state.[14]

A "project" is defined[15] as any structure, facility, machinery, equipment, or other property suitable for use by a health facility in connection with its operations or proposed operations, including without limitation:

- Real property;
- A clinic, computer facility, dining hall, firefighting facility, fire prevention facility, food service and preparation facility, health care facility, long-term care facility, hospital, interns' residence, laboratory, laundry, maintenance facility, nurses' residence; nursing home, nursing school, office, parking area, pharmacy, recreational facility, research facility, storage facility, utility, or X-ray facility, or any combination of these; and
- Other structures or facilities related, required, or useful for health care purposes, research, or the operation of a health facility, including facilities or structures essential or convenient for the orderly conduct of the health facility and other similar items necessary or convenient for the operation of a particular facility or structure in the manner for which its use is intended; and excluding fuel, supplies, or other items customarily charged as current operating expenses.

The Law also provides in s. 154.209(18), F.S., that an accounts receivable program constitutes a project.

The authority is authorized and empowered, among other things, to:

- Sue and be sued;
- Purchase, lease, receive by gift or otherwise, or obtain options for the acquisition of, any real or personal property for the acquisition, construction, operation, or maintenance of any project;
- Construct, acquire, own, lease, repair, maintain, extend, expand, improve, rehabilitate, renovate, furnish, and equip projects and to pay all or any part of these costs from the proceeds of bonds of the authority or from any other funds made available to the authority for such purpose;
- Make and execute agreements of lease, contracts, deeds, mortgages, notes, and other instruments necessary or convenient in the exercise of its powers and functions;
- Sell, lease, exchange, mortgage, transfer, or otherwise dispose of, or to grant options for any such purposes with respect to any project, any real or personal property or interest therein;
- Pledge or assign any money, rents, charges, fees, or other revenues and any proceeds derived from sales of property, insurance, or condemnation awards;

[13] Section 154.209, F.S.
[14] Section 154.247, F.S.
[15] Section 154.205(10), F.S.

- Fix, charge, and collect rents, fees, and charges for the use of any project;
- Issue bonds for the purpose of providing funds to pay all or any part of the cost of any project and to issue refunding bonds;
- Employ consulting engineers, architects, surveyors, attorneys, accountants, financial experts, and such other employees and agents as may be necessary and to fix their compensation;
- Acquire existing projects, reimburse any health facility for the cost of such project, and refund outstanding obligations, mortgages, or advances issued, made, or given by a health facility for the cost of the project;
- Mortgage any project and site for the benefit of the holders of the bonds issued to finance that project;
- Participate in and to issue bonds for the purpose of establishing and maintaining a self-insurance pool, as provided under the state Insurance Code, on behalf of a health facility or a group of health facilities in order to resolve issues related to an act or omission of the health facility, its employees, or agents in the performance of health care or health-care-related functions;
- Issue special obligation revenue bonds for the purpose of establishing and maintaining the self-insurance pool and related reserve funds;
- Participate in and issue bonds and other forms of indebtedness for the purpose of establishing and maintaining an accounts receivable program on behalf of a health facility or group of health facilities;
- Issue and renew its negotiable notes; and
- Issue revenue bonds for the purpose of paying all or any part of the cost of any project or for acquiring existing or completed health facilities projects and negotiable bond anticipation notes payable out of revenues derived by the authority from the sale, operation, or leasing of any project.[16]

Revenue bonds issued by an authority under the Law are not a debt, liability, obligation, or a pledge of the faith and credit of the local agency, the state, or any political subdivision but are payable solely from the revenues of the project.[17]

The Law provides that if a project is subject to review under the Health Facility and Services Development Act in ss. 408.031 – 408.045, F.S., a certificate of need (CON) is required before revenue bonds are validated for a project.[18] A CON is a written statement issued by the Agency for Health Care Administration (Agency) evidencing community need for a new, converted, expanded, or otherwise significantly modified health care facility or hospice.[19] Currently, a CON is required for the addition of beds in community nursing homes or intermediate care facilities for the developmentally disabled, the new construction or establishment of additional health care facilities[20] the conversion from one type of health care facility to another, and the establishment

[16] *See* ss. 154.209, 154.217, and 154.219, F.S.
[17] Section 154.223, F.S.
[18] Section 154.245, F.S. *See also* s. 154.213, F.S.
[19] Section 408.032(3), F.S.
[20] Except for a replacement health care facility when the proposed project site is located on the same site as or within 1 mile of the existing health care facility if the number of beds in each licensed bed category will not increase. Section 408.036(1)(b), F.S.

of a hospice, certain hospice inpatient facilities.[21] A CON issued by the Agency is not required for certain projects upon request.[22]

Currently there are 22 Health Facilities Authorities throughout the state.[23]

III. Effect of Proposed Changes:

CS/SB 68 revises the definition of a health facility to include other entities and associations organized not for profit, including, but not limited to, limited liability companies that are organized as not-for-profit organizations and controlled directly or indirectly by one or more not-for-profit organizations.

The bill revises the powers of authorities to include the power to make and execute loan agreements; to refund outstanding bonds; to refund certain debts issued, made, or given on behalf of a health facility; to make mortgage or other secured or unsecured loans to or for the benefit of any health facility for the cost of a project or to refund or refinance outstanding bonds, obligations, loans, indebtedness, or advances.

The bill requires that mortgage or other secured or unsecured loans be made pursuant to an agreement between an authority and a health facility and allows such loans to be made to an entity affiliated with a health facility that undertakes such financing, refunding, or refinancing, if the loan proceeds are made available to or applied for the benefit of the health facility.

The bill applies the existing requirements for lease agreements in current law to loan agreements and specifies additional requirements for loan agreements. Specifically, the bill requires that a loan agreement govern projects financed or refinanced by the authority with the proceeds of bonds. Such a loan agreement may be between an authority and a health facility or between an authority and an entity affiliated with a health facility that undertakes such financing if the loan proceeds are made available to or applied for the benefit of the health facility.

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

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[21] Section 408.036(1), F.S.

[22] *See* s.408.036(3), F.S.

[23] FLORIDA DEPARTMENT OF COMMERCE, Official List of Special Districts, https://www.floridajobs.org/community-planning-and-development/special-districts/special-district-accountability-program/official-list-of-special-districts, (last visited on Mar 21, 2025). They include the Alachua County Health Facilities Authority, Altamonte Springs Health Facilities Authority, Brevard County Health Facilities Authority, City of Cape Coral Health Facilities Authority, City of Miami Health Facilities Authority, City of South Miami Health Facilities Authority, City of St. Petersburg Health Facilities Authority, Collier County Health Facilities Authority, Escambia Health Facilities Authority, Highlands County Health Facilities Authority, Jacksonville Health Facilities Authority, Martin County Health Facilities Authority, Miami Beach Health Facilities Authority, Miami-Dade County Health Facilities Authority, Mount Dora Health Facilities Authority, Orange County Health Facilities Authority, Osceola County Health Facilities Authority, Palm Beach County Health Facilities Authority, Pasco County Health Facilities Authority, Pinellas County Health Facilities Authority, Santa Rosa County Health Facilities Authority, and Sarasota County Health Facilities Authority. *Id.*

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 bill expands the available options for authorities to assist private entities in acquiring, constructing, financing, and refinancing projects supporting the provision of health care services.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 154.205, 154.209, 154.213, 154.219, 154.221, 154.225, 154.235, and 154.247.

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 March 25, 2025:
The committee substitute clarifies that a limited liability company that has been organized as a not-for-profit entity may receive financing from a health facilities authority.

B. Amendments:

None.

By the Committee on Health Policy; and Senator Martin

588-02855-25 202568c1

A bill to be entitled

An act relating to health facilities authorities; amending s. 154.205, F.S.; revising the definition of the term "health facility" to include other entities and associations organized not for profit; amending s. 154.209, F.S.; revising the powers of health facilities authorities to include the power to issue certain loans and execute related loan agreements; amending s. 154.213, F.S.; specifying requirements for projects financed by loan agreements issued by a health facilities authority; specifying provisions that may be included in such loan agreements; amending ss. 154.219, 154.221, 154.225, 154.235, and 154.247, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Subsection (8) of section 154.205, Florida Statutes, is amended to read:

154.205 Definitions.—The following terms, whenever used in this part, shall have the following meanings unless a different meaning clearly appears from the context:

(8) "Health facility" means any private corporation or other entity or association organized not for profit, including, but not limited to, a limited liability company that is organized as a not-for-profit organization and controlled directly or indirectly by one or more not-for-profit organizations, and authorized by law to provide:

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(a) Hospital services in accordance with chapter 395;

(b) Nursing home care services in accordance with chapter 400;

(c) Life care services in accordance with chapter 651;

(d) Services for the developmentally disabled under chapter 393;

(e) Services for the mentally ill under chapter 394;

(f) Assisted living services in accordance with chapter 429; or

(g) Hospice services in accordance with chapter 400.

The term also includes any private corporation or other entity or association organized not for profit which offers independent living facilities and services as part of a retirement community that provides nursing home care services or assisted living services on the same campus.

Section 2. Present subsection (19) of section 154.209, Florida Statutes, is redesignated as subsection (21), a new subsection (19) and subsection (20) are added to that section, and subsections (6), (8), (9), (13), and (18) of that section are amended, to read:

154.209 Powers of authority.—The purpose of the authority shall be to assist health facilities in the acquisition, construction, financing, and refinancing of projects in any incorporated or unincorporated area within the geographical limits of the local agency. For this purpose, the authority is authorized and empowered:

(6) To make and execute agreements of lease, contracts, deeds, loan agreements, mortgages, notes, and other instruments

necessary or convenient in the exercise of its powers and functions under this part.

(8) To pledge or assign any money, rents, loan payments, charges, fees, or other revenues and any proceeds derived from sales of property, insurance, or condemnation awards.

(9) To fix, charge, and collect rents, loan payments, fees, and charges for the use of any project.

(13) To acquire existing projects and to refund outstanding bonds, obligations, mortgages, or advances issued, made, or given by or on behalf of a health facility for the cost of such project.

(18) To participate in and issue bonds and other forms of indebtedness for the purpose of establishing and maintaining an accounts receivable program on behalf of a health facility or group of health facilities. Notwithstanding any other provisions of this part, the structuring and financing of an accounts receivable program pursuant to this subsection shall constitute a project and may be structured for the benefit of health facilities within or outside the geographical limits of the local agency. An accounts receivable program may include the financing of accounts receivable acquired by a health facility from other not-for-profit health care organizations ~~corporations~~, whether or not controlled by or affiliated with the health facility and regardless of location within or outside the geographical limits of this state.

(19) To make mortgage or other secured or unsecured loans to or for the benefit of any health facility for the cost of a project in accordance with an agreement between the authority and the health facility. Such loans may be made to any entity

affiliated with a health facility that undertakes such financing, if the proceeds of such loan are made available to or applied for the benefit of such health facility.

(20) To make mortgage or other secured or unsecured loans to or for the benefit of a health facility in accordance with an agreement between the authority and the health facility to refund or refinance outstanding bonds, obligations, loans, indebtedness, or advances issued, made, given, or incurred by or for the benefit of such health facility for the cost of a project. Such loans may be made to any entity affiliated with a health facility that undertakes such refunding or refinancing, if the proceeds of such loan are made available to or applied for the benefit of such health facility.

Section 3. Section 154.213, Florida Statutes, is amended to read:

154.213 Agreements of lease; loan agreements.—In undertaking any project pursuant to this part, the authority shall first obtain a valid certificate of need evidencing need for the project and a statement that the project serves a public purpose by advancing the commerce, welfare, and prosperity of the local agency and its people. A ~~No~~ project financed under ~~the provisions of~~ this part may not ~~shall~~ be operated by the authority or any other governmental agency; however, the authority may temporarily operate or cause to be operated all or any part of a project to protect its interest therein pending any leasing of such project in accordance with ~~the provisions of~~ this part. The authority may lease a project or projects to a health facility for operation and maintenance in such manner as to effectuate the purposes of this part under an agreement of

lease in form and substance not inconsistent herewith. Projects financed or refinanced by the authority with the proceeds of bonds issued for the benefit of a health facility pursuant to s. 154.209(19) or (20) shall be governed by one or more loan agreements made between the authority and a health facility, or between the authority and an entity affiliated with a health facility that undertakes such financing, if the proceeds of such loan are made available to or applied for the benefit of such health facility.

(1) Any such agreement of lease or loan agreement may provide, among other provisions, that:

(a) The lessee under an agreement of lease or an obligor under a loan agreement shall at its own expense operate, repair, and maintain the project or projects financed or refinanced ~~leased~~ thereunder.

(b) The rent payable under the agreement of lease or the loan payments made pursuant to the loan agreement shall in the aggregate be not less than an amount sufficient to pay all of the interest, principal, and redemption premiums, if any, on the bonds that are ~~shall be~~ issued by the authority to pay the cost of the project or projects financed or refinanced ~~leased~~ thereunder.

(c) The lessee under an agreement of lease or the obligor under a loan agreement shall pay all costs incurred by the authority in connection with the acquisition, financing, construction, and administration of the project or projects financed or refinanced ~~leased~~, except as may be paid out of the proceeds of bonds or otherwise, including, but not ~~without being~~ limited to, ~~:~~ insurance costs, the cost of administering the bond

resolution authorizing such bonds and any trust agreement securing the bonds, and the fees and expenses of trustees, paying agents, attorneys, consultants, and others.

(d) The terms of the agreement of lease or loan agreement shall terminate not earlier than the date on which all such bonds and all other obligations incurred by the authority in connection with the project or projects financed or refinanced ~~leased~~ thereunder are ~~shall be~~ paid in full, including interest, principal, and redemption premiums, if any, or adequate funds for such payment are ~~shall be~~ deposited in trust.

(e) The lessee's obligation to pay rent under the agreement of lease and the obligor's obligation to make loan payments under a loan agreement may ~~shall~~ not be subject to cancellation, termination, or abatement by the lessee or the obligor until such payment of the bonds or provision for such payment is ~~shall be~~ made.

(2) Such agreement of lease or loan agreement may contain such additional provisions as in the determination of the authority are necessary or convenient to effectuate the purposes of this part, including provisions for extensions of the term and renewals of the lease or loan agreement and vesting in the lessee an option to purchase the project leased thereunder pursuant to such terms and conditions consistent with this part as shall be prescribed in the lease. Except as may otherwise be expressly stated in the agreement of lease or loan agreement, to provide for any contingencies involving the damaging, destruction, or condemnation of the project financed or refinanced ~~leased~~ or any substantial portion thereof, such option to purchase may not be exercised unless all bonds issued

for such project, including all principal, interest, and redemption premiums, if any, and all other obligations incurred by the authority in connection with such project, shall have been paid in full or sufficient funds shall have been deposited in trust for such payment. The purchase price of such project shall not be less than an amount sufficient to pay in full all of the bonds, including all principal, interest, and redemption premiums, if any, issued for the project then outstanding and all other obligations incurred by the authority in connection with such project.

Section 4. Paragraph (b) of subsection (4) of section 154.219, Florida Statutes, is amended to read:

154.219 Revenue bonds.—

(4) Any resolution or resolutions authorizing any revenue bonds or any issue of revenue bonds may contain provisions which shall be a part of the contract with the holders of the revenue bonds to be authorized, as to:

(b) The rentals, loan payments, fees, and other charges to be charged, the amounts to be raised in each year thereby, and the use and disposition of the revenues.

Section 5. Section 154.221, Florida Statutes, is amended to read:

154.221 Security of bondholders.—In the discretion of the authority, any bonds issued under ~~the provisions of~~ this part may be secured by a trust agreement by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or outside ~~without~~ the state. Such trust agreement or resolution providing for the issuance of such bonds may pledge or assign the fees, rents,

charges, or proceeds from the sale of any project or part thereof, insurance proceeds, condemnation awards, and other funds and revenues to be received therefor, and may provide for the mortgaging of any project or any part thereof as security for repayment of the bonds. Such trust agreement or resolution providing for the issuance of such bonds shall contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the acquisition of property and the construction, improvement, maintenance, repair, operation, and insurance of the project or projects in connection with which such bonds shall have been authorized; the fees, rents, loan payments, and other charges to be fixed and collected; the sale of any project, or part thereof, or other property; the terms and conditions for the issuance of additional bonds; and the custody, safeguarding, and application of all moneys. It shall be lawful for any bank or trust company incorporated under the laws of the state which may act as depositary of the proceeds of bonds, revenues, or other money hereunder to furnish such indemnifying bonds or to pledge such securities as may be required by the authority. Any such trust agreement or resolution shall set forth the rights and remedies of the bondholders and of the trustee and may restrict the individual right of action by bondholders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust agreement or

resolution may be treated as a part of the cost of the project or projects in connection with which bonds are issued or as an expense of administration of such projects, as the case may be.

Section 6. Section 154.225, Florida Statutes, is amended to read:

154.225 Revenues.—

(1) The authority is hereby authorized to fix and to collect fees, rents, loan payments, and charges for the use of any project or projects and any part or section thereof. The authority may require that the health facility operating any project or any part thereof financed or refinanced under this chapter or the lessee of any project or part thereof shall operate, repair, and maintain the project and bear the cost thereof and other costs of the authority in connection with the project or projects financed or refinanced ~~leased~~ as may be provided in the agreement of lease, loan agreement, or other contract with the authority, in addition to other obligations imposed under such agreement or contract.

(2) The fees, rents, loan payments, and charges shall be so fixed as to provide a fund sufficient to pay the principal of, and the interest on, such bonds as the same shall become due and payable and to create reserves, if any, deemed by the authority to be necessary for such purposes. The fees, rents, loan payments, charges, and all other revenues and proceeds derived from the project or projects in connection with which the bonds of any issue shall have been issued, except such part thereof as may be necessary for such reserves or any expenditures as may be provided in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be set

aside at such regular intervals as may be specified in such resolution or such trust agreement in a sinking fund which is hereby pledged to, and charged with, the payment of the principal of and the interest on such bonds as the same shall become due and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made. The fees, rents, loan payments, charges, and other revenues and moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the authority, irrespective of whether such parties have notice thereof. The use and disposition of money to the credit of such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust agreement. Except as may otherwise be provided in the resolution or the trust agreement, the sinking fund shall be a fund for all such bonds without distinction or priority of one over another.

Section 7. Subsection (1) of section 154.235, Florida Statutes, is amended to read:

154.235 Refunding bonds.—

(1) The authority is hereby authorized to provide for the issuance of revenue bonds for the purpose of refunding:

(a) Any of its revenue bonds then outstanding; and

(b) Revenue bonds of other issuers, the proceeds of which were used to finance or refinance projects of one or more health

facilities.

Such refunds may include~~, including~~ the payment of any redemption premium thereon and any interest accrued or to accrue to the earliest or subsequent date of redemption, purchase, or maturity of such revenue bonds.

Section 8. Section 154.247, Florida Statutes, is amended to read:

154.247 Financing of projects located outside of local agency.—Notwithstanding any provision of this part to the contrary, an authority may, if it finds that there will be a benefit or a cost savings to a health facility located within its jurisdiction, issue bonds for such health facility to finance projects for such health facility, or for another private corporation or other entity or association organized not-for-profit ~~corporation~~ under common control with such health facility, located outside the geographical limits of the local agency or outside this state.

Section 9. This act shall take effect July 1, 2025.

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 172
INTRODUCER:	Health Policy Committee; Senators Burton and Passidomo
SUBJECT:	Health Care Practitioner Specialty Titles and Designations
DATE:	March 31, 2025 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Smith	Brown	HP	**Fav/CS**
2.	Smith	Yeatman	RC	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 172 amends existing legislative intent under s. 456.003, F.S., relating to the regulation of health care professions and finds that the health, safety, and welfare of the public may be harmed or endangered by unlicensed practice or misleading representations by health care practitioners.

The bill amends ss. 458.3312 and 459.0152, F.S., to specify that only physicians who are board-certified may use a defined list of medical specialist titles and designations—such as "cardiologist," "dermatologist," or "orthopedic surgeon"— and authorizes the Board of Medicine (BOM) and the Board of Osteopathic Medicine (BOOM), respectively, to add other titles by rule.

The bill creates s. 456.65, F.S., to prohibit health care practitioners who are not allopathic or osteopathic physicians from using medical specialist titles within the lists of titles created by the bill for physician specialties in ss. 458.3312 and 459.0152, F.S., unless specifically authorized by law or in accordance with other specific exceptions. This section prohibits the use of misleading terms, titles, or designations that may misrepresent a practitioner's qualifications or imply physician-level training where none exists. Practitioners specifically addressed with exceptions in this section include chiropractic physicians, podiatric physicians, dentists, and anesthesiologist assistants (AAs).

To enforce these requirements, the bill amends s. 456.065, F.S., to authorize the Department of Health (DOH) to issue a notice to cease and desist and pursue other existing remedies if the department has probable cause to believe a health care practitioner has engaged in the unlicensed practice of medicine or osteopathic medicine in violation of s. 456.65, F.S.

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

II. Present Situation:

The Health, Safety, and Welfare of the Public

Chapter 456, F.S., is entitled "Health Professions and Occupations: General Provisions." Section 456.003, F.S., in part, provides Legislative intent about the state's regulation of health care professions, as follows:

- It is the intent of the Legislature that persons desiring to engage in any lawful profession regulated by the DOH are entitled to do so as a matter of right if otherwise qualified.
- Such professions will be regulated only for the preservation of the health, safety, and welfare of the public under the police powers of the state. Such professions will be regulated when:
  - Their unregulated practice can harm or endanger the health, safety, and welfare of the public, and when the potential for such harm is recognizable and clearly outweighs any anticompetitive impact which may result from regulation.
  - The public is not effectively protected by other means, including, but not limited to, other state statutes, local ordinances, or federal legislation.
  - Less restrictive means of regulation are not available.

Licensure and Regulation of Health Care Practitioners

The Division of Medical Quality Assurance (MQA), within the DOH, has general regulatory authority over health care practitioners.[1] The MQA works in conjunction with 22 regulatory boards and four councils to license and regulate over 1.5 million health care practitioners.[2] Professions are generally regulated by individual practice acts and by ch. 456, F.S., which provides regulatory and licensure authority for the MQA. The MQA is statutorily responsible for the following boards and professions established within the division:[3]

- The Board of Acupuncture, created under ch. 457, F.S.;
- The Board of Medicine, created under ch. 458, F.S.;
- The Board of Osteopathic Medicine, created under ch. 459, F.S.;
- The Board of Chiropractic Medicine, created under ch. 460, F.S.;
- The Board of Podiatric Medicine, created under ch. 461, F.S.;
- Naturopathy, as provided under ch. 462, F.S.;
- The Board of Optometry, created under ch. 463, F.S.;
- The Board of Nursing, created under part I of ch. 464, F.S.;
- Nursing assistants, as provided under part II of ch. 464, F.S.;

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[1] Pursuant to s. 456.001(4), F.S., health care practitioners are defined to include acupuncturists, physicians, physician assistants, chiropractors, podiatrists, naturopaths, dentists, dental hygienists, optometrists, nurses, nursing assistants, pharmacists, midwives, speech language pathologists, nursing home administrators, occupational therapists, respiratory therapists, dieticians, athletic trainers, orthotists, prosthetists, electrologists, massage therapists, clinical laboratory personnel, medical physicists, genic counselors, dispensers of optical devices or hearing aids, physical therapists, psychologists, social workers, counselors, and psychotherapists, among others.

[2] Florida Department of Health, Division of Medical Quality Assurance, *Annual Report and Long-Range Plan, Fiscal Year 2023-2024*, p. 7-8, https://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/2024.10.28.FY23-24AR-FINAL.pdf (last visited Mar. 24, 2025).

[3] Section 456.001(4), F.S.

- The Board of Pharmacy, created under ch. 465, F.S.;
- The Board of Dentistry, created under ch. 466, F.S.;
- Midwifery, as provided under ch. 467, F.S.;
- The Board of Speech-Language Pathology and Audiology, created under part I of ch. 468, F.S.;
- The Board of Nursing Home Administrators, created under part II of ch. 468, F.S.;
- The Board of Occupational Therapy, created under part III of ch. 468, F.S.;
- Respiratory therapy, as provided under part V of ch. 468, F.S.;
- Dietetics and nutrition practice, as provided under part X of ch. 468, F.S.;
- The Board of Athletic Training, created under part XIII of ch. 468, F.S.;
- The Board of Orthotists and Prosthetists, created under part XIV of ch. 468, F.S.;
- Electrolysis, as provided under ch. 478, F.S.;
- The Board of Massage Therapy, created under ch. 480, F.S.;
- The Board of Clinical Laboratory Personnel, created under part I of ch. 483, F.S.;
- Medical physicists, as provided under part II of ch. 483, F.S.;
- Genetic Counselors as provided under part III of ch. 483, F.S.;
- The Board of Opticianry, created under part I of ch. 484, F.S.;
- The Board of Hearing Aid Specialists, created under part II of ch. 484, F.S.;
- The Board of Physical Therapy Practice, created under ch. 486, F.S.;
- The Board of Psychology, created under ch. 490, F.S.;
- School psychologists, as provided under ch. 490, F.S.;
- The Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling, created under ch. 491, F.S.; and
- Emergency medical technicians and paramedics, as provided under part III of ch. 401, F.S.

The DOH and the practitioner boards have different roles in the regulatory system. Boards establish practice standards by rule, pursuant to statutory authority and directives. The DOH receives and investigates complaints about practitioners and prosecutes cases for disciplinary action against practitioners.

The DOH, on behalf of the professional boards, investigates complaints against practitioners.[4] Once an investigation is complete, the DOH presents the investigatory findings to the boards. The DOH recommends a course of action to the appropriate board's probable cause panel, which may include:[5]

- Issuing an Emergency Order;
- Having the file reviewed by an expert;
- Issuing a closing order; or
- Filing an administrative complaint.

[4] Department of Health, *Investigative Services*, http://www.floridahealth.gov/licensing-and-regulation/enforcement/admin-complaint-process/isu.html (last visited Mar. 24, 2025).
[5] Department of Health, *Prosecution Services*, http://www.floridahealth.gov/licensing-and-regulation/enforcement/admin-complaint-process/psu.html (last visited Mar. 24, 2025).

The boards determine the course of action and any disciplinary action to take against a practitioner under the respective practice act.[6] For professions for which there is no board, the DOH determines the action and discipline to take against a practitioner and issues the final orders.[7] The DOH is responsible for ensuring that licensees comply with the terms and penalties imposed by the boards.[8] If a case is appealed, DOH attorneys defend the final actions of the boards before the appropriate appellate court.[9]

The DOH and board rules apply to all statutory grounds for discipline against a practitioner. Under current law, the DOH takes on the disciplinary functions of a board relating to violations of a practice act only for practitioner types that do not have a board. The DOH itself takes no final disciplinary action against practitioners for which there is a board.

The Unlicensed Activity Unit

The Unlicensed Activity (ULA) Unit protects Florida residents and visitors from the potentially serious and dangerous consequences of receiving medical and health care services from an unlicensed person. The ULA unit investigates and refers for prosecution all unlicensed health care activity complaints and allegations.

The ULA unit works in conjunction with law enforcement and the state attorney's offices to prosecute individuals practicing without a license. In many instances, unlicensed activity is a felony level criminal offense. More importantly, receiving health care from unlicensed persons is dangerous and could result in further injury, disease or even death.[10]

The Unlicensed Activity Investigation Process

The DOH assigns all ULA complaints a computer-generated complaint number for tracking purposes. If the allegations are determined to be legally sufficient, the matter will be forwarded to a ULA investigator whose office is geographically closest to the location where the alleged unlicensed activity is occurring. In cases where the person making the allegation has provided their identifying information, a ULA investigator will contact him or her to verify the allegations. The investigator may also ask for more detailed information concerning certain aspects of the complaint. He or she may also ask to meet with the complainant in person for a formal interview. All ULA investigators are empowered to take sworn statements.

After discussing the allegations with the complainant, the ULA investigator will pursue all appropriate investigative steps (gather documents, conduct surveillance, question witnesses, etc.) in order to make a determination concerning the likelihood that the offense(s) took place in the manner described by the complainant. In the event that a licensed health care provider is alleged to be somehow involved with the unlicensed activity, the ULA investigator will also coordinate

[6] Section 456.072(2), F.S.
[7] Professions which do not have a board include naturopathy, nursing assistants, midwifery, respiratory therapy, dietetics and nutrition, electrolysis, medical physicists, genetic counselors, and school psychologists.
[8] *Supra*, note 5.
[9] *Id.*
[10] The Department of Health, Licensing and Regulation, enforcement, Unlicensed Activity, *Reporting Unlicensed Activity*, *available at* https://www.floridahealth.gov/licensing-and-regulation/enforcement/report-unlicensed-activity/index.html (last visited Mar. 24, 2025).

his or her investigation with the Investigative Services Unit (ISU) regulatory investigator assigned to investigate the licensee.

If the complainant's allegations can be substantiated, the ULA investigation will conclude with one or more of the following outcomes:

- The subject(s) will be issued a Cease and Desist Agreement.
- The subject(s) will be issued a Uniform Unlicensed Activity Citation (fine).
- The subject(s) will be arrested by law enforcement.

If the investigation determines that the alleged acts either did not take place or if they did occur but all actions were lawful and proper, the investigation will be closed as unfounded. In the event that the allegation(s) cannot be clearly proved or disproved, the matter will be closed as unsubstantiated. In any case, a detailed investigative report will be prepared by the ULA investigator supporting the conclusions reached by the investigation.

Under s. 456.065, F.S., investigations involving the unlicensed practice of a health care profession are criminal investigations that require the development of sufficient evidence (probable cause) to present to law enforcement or file charges with the State Attorney's Office in the county of occurrence. While ULA investigators are non-sworn, many have law enforcement experience gained from prior careers as police officers and detectives. ULA investigators work cooperatively with many law enforcement agencies in joint investigations that are either initiated by the DOH or the agency concerned.[11]

Health Care Specialties and Florida Licensure

The DOH does not license health care practitioners by specialty or subspecialty. A health care practitioner's specialty area of practice is acquired through the practitioner's additional education, training, or experience in a particular area of health care practice. Practitioners who have acquired additional education, training, or experience in a particular area may also elect to become board-certified in that specialty by private, national specialty boards, such as the American Board of Medical Specialties (ABMS), the Accreditation Board for Specialty Nursing Certification, and the American Board of Dental Specialties.[12] Board certification is not required to practice a medical or osteopathic specialty.

Title Prohibitions Under Current Florida Law

Current law limits which health care practitioners may hold themselves out as board-certified specialists. Under s. 458.3312, F.S., an allopathic physician may not hold himself or herself out as a board-certified specialist unless he or she has received formal recognition as a specialist

[11] The Department of Health, Licensing and Regulation, enforcement, Unlicensed Activity, *Investigate Complaints*, *available* at https://www.floridahealth.gov/licensing-and-regulation/enforcement/report-unlicensed-activity/investigate-complaints.html (last visited Mar. 24, 2025).

[12] Examples of specialties include dermatology, emergency medicine, ophthalmology, pediatric medicine, certified registered nurse anesthetist, clinical nurse specialist, cardiac nurse, nurse practitioner, endodontics, orthodontics, and pediatric dentistry.

from a specialty board of the ABMS or other recognizing agency[13] approved by the BOM.[14] Similarly, under s. 459.0152, F.S., an osteopathic physician may not hold himself or herself out as a board-certified specialist unless he or she has successfully completed the requirements for certification by the American Osteopathic Association (AOA) or the Accreditation Council on Graduate Medical Education (ACGME) and is certified as a specialist by a certifying agency[15] approved by the BOOM.[16] In addition, an allopathic physician may not hold himself or herself out as a board-certified specialist in dermatology unless the recognizing agency, whether authorized in statute or by rule, is triennially reviewed and reauthorized by the BOM.[17] However, a physician licensed under ch. 458 or 459, F.S., may indicate the services offered and may state that his or her practice is limited to one or more types of services when this accurately reflects the scope of practice of the physician.[18]

A podiatric physician also may not advertise that he or she is board certified unless the organization is approved by the Board of Podiatric Medicine (BPM) for the purposes of advertising only and the name of the organization is identified in full in the advertisement. In order for an organization to obtain the BPM approval it must be the American Podiatric Medical Association, the National Council of Competency Assurance, or an organization that must:

- Be composed of podiatric physicians interested in a special area of practice demonstrated through successful completion of examinations or case reports;
- Subscribe to a code of ethics;
- Have rules and procedures for maintaining a high level of professional conduct and discipline among its membership;
- Have an active membership of at least seventy-five (75);
- Sponsor annual meeting and courses in Board approved continuing education; and
- Be a national organization in scope and give a certification examination at least once a year before the podiatric physician can advertise possession of the certification.[19]

A dentist may not hold himself or herself out as a specialist, or advertise membership in or specialty recognition by an accrediting organization, unless the dentist has completed a specialty education program approved by the American Dental Association and the Commission on Dental Accreditation and the dentist is:[20]

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[13] The Board of Medicine has approved the specialty boards of the ABMS as recognizing agencies. Fla. Admin. Code. R. 64B8-11.001(1)(f),(2025). The board has also approved the following recognizing agencies: American Board of Facial Plastic & Reconstructive Surgery, Inc., American Board of Pain Medicine, American Association of Physician Specialists, Inc./American Board of Physician Specialties, American Board of Interventional Pain Physicians, American Board of Vascular Medicine, United Council for Neurologic Subspecialties, and American Board of Electrodiagnositic Medicine. Fla.-Admin. Code. R. 64B8-11.001(8),(2025).

[14] Section 458.3312, F.S.

[15] The Board of Osteopathic Medicine has approved the specialty boards of the ABMS and AOA as recognizing agencies. Fla. Admin. Code R. 64B15-14.001(2)(h),(2025). The osteopathic board has also approved the following recognizing agencies: American Association of Physician Specialists, Inc., and American Board of Interventional Pain Physicians. Fla.-Admin. Code R. 64B15-14.001(5),(2025).

[16] Section 459.0152, F.S.

[17] *Id.*

[18] Sections 458.3312 and 459.0152, F.S.

[19] Fla. Admin. Code R. 64B18-14.004 (2025).

[20] Section 466.0282, F.S. A dentist may also hold himself or herself out as a specialist if the dentist has continuously held himself or herself out as a specialist since December 31, 1964, in a specialty recognized by the American Dental Association.

- Eligible for examination by a national specialty board recognized by the American Dental Association; or
- Is a diplomate of a national specialty board recognized by the American Dental Association.

If a dentist announces or advertises a specialty practice for which there is not an approved accrediting organization, the dentist must clearly state that the specialty is not recognized or that the accrediting organization has not been approved by the American Dental Association or the Florida Board of Dentistry.[21]

The Board of Chiropractic Medicine (BCM) permits a chiropractor to advertise that he or she has attained diplomate status in a chiropractic specialty area recognized by the BCM. BCM specialties include those which are recognized by the Councils of the American Chiropractic Association, the International Chiropractic Association, the International Academy of Clinical Neurology, or the International Chiropractic Pediatric Association.[22]

Practitioner Discipline

Section 456.072, F.S., authorizes a regulatory board, or the DOH if there is no board, to discipline a health care practitioner's licensure for a number of offenses, including, but not limited to:

- Making misleading, deceptive, or fraudulent representations in or related to the practice of the licensee's profession; or
- Failing to identify through writing or orally to a patient the type of license under which the practitioner is practicing.

If a board or the DOH finds that a licensee committed a violation of a statute or rule, the board or the DOH may:[23]

- Refuse to certify, or to certify with restrictions, an application for a license;
- Suspend or permanently revoke a license;
- Place a restriction on the licensee's practice or license;
- Impose an administrative fine not to exceed $10,000 for each count or separate offense; if the violation is for fraud or making a false representation, a fine of $10,000 must be imposed for each count or separate offense;
- Issue a reprimand or letter of concern;
- Place the licensee on probation;
- Require a corrective action plan;
- Refund fees billed and collected from the patient or third party on behalf of the patient; or
- Require the licensee to undergo remedial education.

[21] Section 466.0282(3), F.S.
[22] Fla. Admin. Code R. 64B2-15.001(2)(e), (2025). Examples of chiropractic specialties include chiropractic acupuncture, chiropractic internist, chiropractic and clinical nutrition, radiology chiropractic, and pediatric chiropractors.
[23] Section 456.072(2), F.S.

"Nurse Anesthesiologist"

On August 8, 2019, at the general Board of Nursing (BON) meeting, the BON considered requests for declaratory statements.[24] The second request for a declaratory statement was made by John P. McDonough, APRN,[25] CRNA,[26] license number 3344982.[27]

For the meeting, McDonough's Petition for Declaratory Statement acknowledged that the type of Florida nursing license he held was as an advanced practice registered nurse (APRN), and that he was a certified registered nurse anesthetist (CRNA), but requested that he be permitted to use the phrase "nurse anesthesiologist" as a descriptor for him or his practice, and that the BON not subject him to discipline under ss. 456.072 and 464.018, F.S.,[28] based on the following grounds:

- A New Hampshire Board of Nursing's Position Statement that the nomenclature, *Nurse Anesthesiologist* and *Certified Registered Nurse Anesthesiologist*, are not title changes or an expansion of scope of practice, but are optional, accurate descriptors;[29] and
- Florida law grants no title protection to the words *anesthesiologist* or *anesthetist*.[30]

The Florida Association of Nurse Anesthetists (FANA) and the Florida Medical Association, Inc. (FMA), Florida Society of Anesthesiologists, Inc. (FSA), and Florida Osteopathic Medical Association, Inc. (FOMA), filed timely and legally sufficient[31] motions to intervene[32] pursuant to

[24] Section 120.565, F.S. Provides that, "[a]ny substantially affected person may seek a declaratory statement regarding an agency's opinion as to the applicability of a statutory provision as it applies to the petitioner's particular set of circumstances. The agency must give notice of the filing of a petition in the Florida Administrative Register, provide copies of the petition to the board, and issue a declaratory statement or deny the petition within 90 days after the filing. The declaratory statement or denial of the petition is then noticed in the next Florida Administrative Register, and disposition of a petition is a final agency action."

[25] An APRN is an advanced practice registered nurse licensed under ch. 464, F.S.

[26] A CRNA is a certified registered nurse anesthetist, or an APRN who specializes is anesthesia.

[27] The Florida Board of Nursing, Meeting Minutes, Disciplinary Hearings & General Business, *Declaratory Statements*, No. 2, Aug. 8, 2019, *available at* https://floridasnursing.gov/meetings/minutes/2019/08-august/08072019-minutes.pdf p. 28 (last visited Mar. 24, 2025).

[28] *Petition for Declaratory Statement Before the Board of Nursing, In re: John P. McDonough, A.P.R.N., C.R.N.A., Ed.D.*, filed at the Department of Health, July 10, 2019 (on file with the Senate Committee on Health Policy).

[29] New Hampshire Board of Nursing, *Position Statement Regarding the use of Nurse Anesthesiologist as a communication tool and optional descriptor for Certified Registered Nurse Anesthetists (CRNAs)*, Nov. 20, 2018, *available at* https://static1.squarespace.com/static/5bf069ef3e2d09d0f4e0a54f/t/5f6f8a708d2cb23bb10f50a0/1601145457231/NH+BON+NURSE+ANESTHESIOLOGIST.pdf (last visited Mar. 24, 2025).

[30] *Id.*

[31] Fla. Adm. Code R. 28-105.0027(2) and 28.106.205(2) (2019), both of which state that to be legally sufficient, a motion to intervene in a proceeding on a petition for a declaratory statement must contain the following information: (a) The name, address, the e-mail address, and facsimile number, if any, of the intervenor; if the intervenor is not represented by an attorney or qualified representative;(b) The name, address, e-mail address, telephone number, and any facsimile number of the intervener's attorney or qualified representative, if any; (c) Allegations sufficient to demonstrate that the intervenor is entitled to participate in the proceeding as a matter of constitutional or statutory right or pursuant to agency rule, or *that the substantial interests of the intervenor are subject to determination or will be affected by the declaratory statement;* (d) The signature of the intervener or intervener's attorney or qualified representative; and (e) The date.

[32] The Florida Medical Association, Inc., Florida Society of Anesthesiologists, Inc., and Florida Osteopathic Medical Association, Inc., *Motion to Intervene In Florida Board of Nursing's Consideration of the Petition for Declaratory Statement in Opposition of Petitioner John P. McDonough, A.P.R.N., C.R.N.A., Ed.D.*, filed at the Department of Health, Aug. 1, 2019, (on file with the Senate Health Policy Committee).

Florida Administrative Code Rule 28-106.205.[33] The FANA's petition[34] was in support of petitioner's Declaratory Statement while the motion filed jointly by the FMA, FSA, and FOMA was in opposition.

The FMA, FSA, and FOMA argued they were entitled to participate in the proceedings, on behalf of their members, as the substantial interests of their members – some 32,300 – could be adversely affected by the proceeding.[35, 36] Specifically, the FMA, FSA, and FOMA argued that the substantial interests of their respective members would be adversely affected by the issuance of a Declaratory Statement that a petitioner could use the term "nurse anesthesiologist," without violating ss. 456.072 and 464.018, F.S., on the grounds that:

- A substantial number of their members use the term "anesthesiologist" with the intent and understanding that patients, and potential patients, would recognize the term to refer to them as physicians licensed under chs. 458 or 459, F.S., not "nurse anesthetists;"
- Sections 458.3475(1)(a) and 459.023(1)(a), F.S., both define the term "anesthesiologist" as a licensed allopathic or osteopathic physician and do not include in those definitions a "nurse anesthetist;"
- The Merriam-Webster Dictionary defines an "anesthesiologist" as a "physician specializing in anesthesiology," not as a nurse specializing in anesthesia; and
- The Legislature clearly intended a distinction between the titles to be used by physicians practicing anesthesiology and nurses delivering anesthesia, to avoid confusion, as s. 464.015(6), F.S., specifically states that:
  - Only persons who hold valid certificates to practice as certified registered nurse anesthetists in this state may use the title "Certified Registered Nurse Anesthetist" and the abbreviations "C.R.N.A." or "nurse anesthetist;" and
  - Petitioner is licensed as a "registered nurse anesthetist" under s. 464.012(1)(a), F.S., and the term "nurse anesthesiologist" is not found in statute.

At the hearing, the attorney for the BON advised the BON that, "[t]he first thing the Board need[ed] to do [was] determine whether or not the organizations that [had] filed petitions to intervene have standing in order to participate in the discussion of the Declaratory Statement"[37] and that:

> "Basically in order to make a determination of whether an organization has standing, they have to show that the members of their organization would have an actual injury in fact, or suffer an immediate harm of some sort of immediacy were the Board to issue this particular Declaratory Statement, and then the Board also has to make a determination of

[33] Fla. Adm. Code. R. 28-106.205 (2019), in pertinent part, provides, "Persons other than the original parties to a pending proceeding whose substantial interest will be affected by the proceeding and who desire to become parties may move the presiding officer for leave to intervene."
[34] *Florida Association of Nurse Anesthetists Motion to Intervene,* filed at the Department of Health, July 31, 2019, (on file with the Senate Committee on Health Policy).
[35] *Supra* note 43.
[36] *See Florida Home Builders Association, et al., Petitioners, v. Department of Labor And Employment Security, Respondent*, 412 S.2d 351 (Fla. 1982), holding that a trade association does have standing under s. 120.56(1), F.S., to challenge the validity of an agency ruling on behalf of its members when that association fairly represents members who have been substantially affected by the ruling.
[37] Record at p. 3, ll. 13-17. Declaratory Statement, Dr. John P. McDonough, Before the Board of Nurses, State of Florida, Department of Health, Sanibel Harbor Marriott. (on file with the Senate Committee on Health Policy).

> whether the nature of the injury would be within the zone of interest that the statute is addressing."[38]

However, the above special injury standard,[39] provided by board counsel to the BON to apply to determine the organizations' standing to intervene, based on their members' substantial interests being affected by the declaratory statement, was held inapplicable to trade associations in *Florida Home Builders Ass'n. v. Department of Labor and Employment Security*, 412 So 2d 351 (Fla. 1982). The Florida Supreme Court, in *Florida Home Build*ers, *Ass'n.*, held that a trade or professional association is able to challenge an agency action on behalf of its members, even though each member could individually challenge the agency action, if the organization could demonstrate that:

- A substantial number of the association members, though not necessarily a majority, would be "substantially affected" by the challenged action;
- The subject matter of the challenged action is within the association's scope of interest and activity; and
- The relief requested is appropriate for the association's members.[40]

The FANA's motion to intervene was granted, based on the application of an incorrect standard, without the BON making the findings required by *Florida Home Build*ers, *Ass'n.* The motion to intervene filed by the FMA, FSA, and FOMA was denied, also based on the application of an incorrect standard, on the grounds that:

- Their members are regulated by the Board of Medicine, not the Board of Nursing;
- Nursing disciplinary guidelines were being discussed;
- Their members' licenses and discipline would not be affected by an interpretation of nursing discipline;[41] and
- Their members are not regulated by the Nurse Practice Act.

A motion was made to approve McDonough's Petition for Declaratory Statement, and it passed unanimously. According to the BON's approval, McDonough may now use of the term "nurse anesthesiologist" as a descriptor, and such use is not grounds for discipline against his nursing license. However, while s. 120.565, F.S., provides that any person may seek a declaratory statement regarding the potential impact of a statute, rule or agency opinion on a petitioner's particular situation, approval or denial of the petition only applies to the petitioner. It is not a method of obtaining a policy statement from a board of general applicability.[42]

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[38] *Id.* p. 3-4, ll. 22- 25, 1-6.
[39] *United States Steel Corp. v. Save Sand Key, Inc.*, 303 So.2d 9 (Fla. 1974).
[40] *Florida Home Builders Ass'n. v. Department of Labor and Employment Security*, 412 So.2d 351 (Fla. 1982), pp. 353-354.
[41] Record at p. 7, ll. 1-13. Declaratory Statement, Dr. John P. McDonough, Before the Board of Nurses, State of Florida, Department of Health, Sanibel Harbor Marriott. (on file with the Senate Committee on Health Policy).
[42] Florida Department of Health, Board of Nursing, *What is a Declaratory Statement?*, *available at* https://floridasnursing.gov/help-center/what-is-a-declaratory-statement/ (last visited Mar. 24, 2025).

News media have reported that the BON's Declaratory Statement in favor of McDonough has created significant concern for patient safety and the potential for confusion in the use of the moniker "anesthesiologist" among Florida's medical professionals.[43, 44]

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 456.003(2), F.S., regarding Legislative intent for the regulation of health care professions to provide a Legislative finding that the health, safety, and welfare of the public may be harmed or endangered under any of the following conditions:

- By the unlawful practice of a profession;
- By a misleading, deceptive, or fraudulent representation relating to a person's authority to practice a profession lawfully; or
- When patients are uninformed about the profession under which a practitioner is practicing before receiving professional consultation or services from the practitioner.

The bill provides that the Legislature's regulation of health care professions as provided under current law in s. 456.003(2), F.S., is a matter of great public importance.

Section 2 of the bill amends s. 456.065, F.S., to establish that the DOH may issue a notice to cease and desist if a health care practitioner has engaged in the unlicensed practice of a health care profession by violating s. 456.65, F.S., regarding the unlicensed practice of medicine or osteopathic medicine, as created in section 3 of the bill and may pursue other remedies authorized under s. 456.065, F.S., which apply to the unlicensed practice of a health care profession. In practice, the DOH would be authorized to treat a health care practitioner's unlawful practice of medicine or osteopathic medicine under the bill as the department would for an unlicensed person, starting with a notice to cease and desist and potentially exercising other authorities in current law if the unlawful practice continues.

Section 3 of the bill creates s. 456.65, F.S., to prohibit a health care practitioner not licensed as a physician under ch. 458, F.S., or ch. 459, F.S., from holding himself or herself out to a patient or the general public as a specialist by describing himself or herself or his or her practice through the use of any medical specialist title or designation specifically listed under s. 458.3312(2), F.S., as created in section 3 of the bill, or under s. 459.0152(2), as created in section 4 of the bill, either alone or in combination, or in connection with other words, unless the practitioner is specifically authorized by law to use that medical specialist title or designation.

The bill creates ss. 458.3312(3) and 459.0152(3), F.S., to authorize the BOM and the BOOM to, by rule, create other specialist titles that are subject to the respective prohibitions on physicians licensed under those chapters of statute.

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[43] Christine Sexton, The News Service of Florida, "*Nursing Board Signs Off On 'Anesthesiologist' Title,"* August 16, 2019, The Gainesville Sun, *available at*: https://www.gainesville.com/news/20190816/nursing-board-signs-off-on-anesthesiologist-title (last visited Mar. 24, 2025).

[44] Christine Sexton, The News Service of Florida, *"Florida Lawmaker Takes Aim At Health Care Titles,*" October 10, 2019, Health News Florida, *available at* https://health.wusf.usf.edu/post/florida-lawmaker-takes-aim-health-care-titles (last visited Mar. 24, 2025).

A violation of this prohibition would constitute the unlicensed practice of medicine or osteopathic medicine, as applicable, and DOH may pursue enforcement remedies under s. 456.065, F.S., as amended in section 2 of the bill.

Exceptions

Notwithstanding the prohibition created in this section, the bill provides that a **licensed health care practitioner** may use the name or title of his or her profession that is authorized under his or her practice act, and any corresponding designations or initials so authorized, to describe himself or herself and his or her practice.

Additionally, the bill provides that a **licensed health care practitioner who has a specialty area of practice authorized under his or her practice act** may use the following format to identify himself or herself or describe his or her practice: "...(name or title of the practitioner's profession)..., specializing in ...(name of the practitioner's specialty)...."

A **chiropractic physician** licensed under ch. 460, F.S., is authorized to use the title "chiropractic radiologist" and other titles, abbreviations, or designations authorized under his or her practice act reflecting those chiropractic specialty areas in which the chiropractic physician has attained diplomate status as recognized by the American Chiropractic Association, the International Chiropractors Association, the International Academy of Clinical Neurology, or the International Chiropractic Pediatric Association.

A **podiatric physician** licensed under ch. 461, F.S., may use the following titles and abbreviations as applicable to his or her license, specialty, and certification: "podiatric surgeon," "Fellow in the American College of Foot and Ankle Surgeons," and any other titles or abbreviations authorized under his or her practice act.

A **dentist** licensed under ch. 466, F.S., may use the following titles and abbreviations as applicable to his or her license, specialty, and certification: "doctor of dental surgery," "D.D.S.," "oral surgeon," "maxillofacial surgeon," "oral and maxillofacial surgeon," "O.M.S.," "dental anesthesiologist," "oral pathologist," "oral radiologist," and any other titles or abbreviations authorized under his or her practice act.

An **anesthesiologist assistant** licensed under ch. 458, F.S., or ch. 459, F.S., may use the titles "anesthesiologist assistant" or "certified anesthesiologist assistant" and the abbreviations "A.A." or "C.A.A.," as applicable.

A **physician** licensed under ch. 458, F.S., or ch. 459, F.S., may use a specialist title or designation according to s. 458.3312, F.S., or s. 459.0152, F.S., as applicable.

Section 4 of the bill amends s. 458.3312, F.S., for allopathic physician specialties and **section 5** of the bill amends s. 459.0152, F.S., for osteopathic physician specialties.

Under current law, an allopathic physician licensed under ch. 458, F.S., may not hold himself or herself out as a board-certified specialist unless the physician has received formal recognition as

a specialist from a specialty board of the American Board of Medical Specialties or other recognizing agency that has been approved by the BOM.

Similarly, an osteopathic physician licensed under ch. 459, F.S., may not hold himself or herself out as a board-certified specialist under current law unless the osteopathic physician has:

- Successfully completed the requirements for certification by the American Osteopathic Association (AOA) or the Accreditation Council on Graduate Medical Education (ACGME); and
- Is certified as a specialist by a certifying agency approved by the BOOM.

In sections 4 and 5, the bill creates identical lists of medical specialist titles and designations that may be used only by physicians licensed under ch. 458 or ch. 459, F.S., respectively, who have met the above requirements and become board-certified. The BOM and the BOOM are authorized to adopt additional specialist titles and designations by rule that would be reserved for use by board-certified physicians. Such rules would apply only to licensed allopathic or osteopathic physicians, respectively.

The bill reserves the use of the following medical specialist titles and designations for board-certified allopathic and osteopathic physicians:

- Surgeon.
- Neurosurgeon.
- General surgeon.
- Plastic Surgeon.
- Thoracic Surgeon.
- Allergist.
- Anesthesiologist.
- Cardiologist.
- Dermatologist.
- Endocrinologist.
- Gastroenterologist.
- Geriatrician
- Gynecologist.
- Hematologist.
- Hospitalist.
- Immunologist.
- Intensivist.
- Internist.
- Laryngologist.
- Nephrologist.
- Neurologist.
- Neurotologist.
- Obstetrician.
- Oncologist.
- Ophthalmologist.
- Orthopedic surgeon.

- Orthopedist.
- Otologist.
- Otolaryngologist.
- Otorhinolaryngologist.
- Pathologist.
- Pediatrician.
- Proctologist.
- Psychiatrist.
- Pulmonologist.
- Radiologist.
- Rheumatologist.
- Rhinologist.
- Urologist.

In conjunction with the statute created in section 3 of the bill, a health care practitioner who is not a licensed allopathic or osteopathic physician may not hold himself or herself out to a patient or the public at large as a specialist by describing himself or herself or his or her practice using any of the titles or designations that appear in the statutory lists above.

Section 6 of the bill provides an effective date of July 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

To the extent persons violate the bill's provisions, the bill could have a potential workload increase and an increase in costs for the DOH's ULA Unit of an indeterminate amount.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 456.003, 456.065, 458.3312, and 459.0152.

This bill creates section 456.65 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 March 25, 2025:
The committee substitute establishes that the DOH may issue a notice to cease and desist and may pursue other existing remedies, if a health care practitioner has engaged in the unlicensed practice of a health care profession by violating s. 456.65, F.S., regarding the unlicensed practice of medicine or osteopathic medicine, as created in section 3 of the bill. The CS deletes a provision providing construction for s. 456.65, F.S., and reaffirms under that section that a physician licensed under ch. 458, F.S., or ch. 459, F.S., may use a specialist title or designation according to s. 458.3312, F.S., or s. 459.0152, F.S., as applicable.

To the lists of specialist titles that may be used only by physicians licensed under ch. 458, F.S., or ch. 459, F.S., and who have met statutory requirements and become board-

certified specialists, the CS adds the following titles: plastic surgeon, thoracic surgeon, allergist, geriatrician, immunologist, neurotologist, and pulmonologist.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate . House

. . . . .

The Committee on Rules (Burton) recommended the following:

Senate Amendment (with title amendment)

Between lines 159 and 160

insert:

(4)(a) A health care practitioner not licensed and certified to practice as a certified registered nurse anesthetist under chapter 464 may not use the term "certified registered nurse anesthetist" or the abbreviations "C.R.N.A.," "nurse anesthetist," or "anesthetist," either alone or in combination with titles or abbreviations authorized under paragraph (3)(f), to describe himself or herself or his or her

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practice to a patient or the public at large.

(b) A violation of paragraph (a) constitutes the unlicensed practice of nursing, and the department may pursue remedies under s. 456.065 for such violation.

(5) This section may not be construed to prohibit or interfere with the ability of a health care practitioner, group practice as defined in s. 456.053, or health care provider as defined in s. 381.4015 to lawfully bill the Medicare program or other federal health care program using definitions or terminology provided under applicable federal law or regulations for services rendered to a patient enrolled in such program.

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

And the title is amended as follows:

Delete line 23

and insert:

use; prohibiting health care practitioners not licensed as certified registered nurse anesthetists from using a specified title and abbreviations under certain conditions; providing that the use of such title or abbreviations constitutes the unlicensed practice of nursing; authorizing the department to pursue specified remedies for such violations; providing construction; amending ss. 458.3312 and 459.0152, F.S.;

By the Committee on Health Policy; and Senators Burton and Passidomo

588-02851-25 2025172c1

A bill to be entitled

An act relating to health care practitioner specialty titles and designations; amending s. 456.003, F.S.; revising legislative findings; amending s. 456.065, F.S.; providing circumstances under which the Department of Health may issue a notice to cease and desist and pursue other remedies upon finding probable cause; creating s. 456.65, F.S.; prohibiting the use of specified titles and designations by health care practitioners not licensed as physicians or osteopathic physicians, as applicable, with an exception; providing that the use of such titles and designations constitutes the unlicensed practice of medicine or osteopathic medicine, as applicable; authorizing the department to pursue specified remedies for such violations; authorizing health care practitioners to use names and titles, and their corresponding designations and initials, authorized by their respective practice acts; specifying the manner in which health care practitioners may represent their specialty practice areas; specifying titles and abbreviations certain health care practitioners may use; amending ss. 458.3312 and 459.0152, F.S.; specifying specialist titles and designations that physicians and osteopathic physicians, respectively, are prohibited from using unless they have received formal recognition by the appropriate recognizing agency for such specialty certifications; authorizing the Board of Medicine and the Board of Osteopathic

588-02851-25 2025172c1

Medicine, as applicable, to adopt certain rules; providing an effective date.

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

Section 1. Subsection (2) of section 456.003, Florida Statutes, is amended to read:

456.003 Legislative intent; requirements.—

(2) The Legislature further finds ~~believes~~ that such professions must ~~shall~~ be regulated only for the preservation of the health, safety, and welfare of the public under the police powers of the state, and that the health, safety, and welfare of the public may be harmed or endangered by the unlawful practice of a profession; by a misleading, deceptive, or fraudulent representation relating to a person's authority to practice a profession lawfully; or when patients are uninformed about the profession under which a health care practitioner is practicing before receiving professional consultation or services from the practitioner. As a matter of great public importance, such professions must ~~shall~~ be regulated when:

(a) Their unregulated practice can harm or endanger the health, safety, and welfare of the public, and when the potential for such harm is recognizable and clearly outweighs any anticompetitive impact which may result from regulation.

(b) The public is not effectively protected by other means, including, but not limited to, other state statutes, local ordinances, or federal legislation.

(c) Less restrictive means of regulation are not available.

Section 2. Paragraph (a) of subsection (2) of section

456.065, Florida Statutes, is amended to read:

456.065 Unlicensed practice of a health care profession; intent; cease and desist notice; penalties; enforcement; citations; fees; allocation and disposition of moneys collected.—

(2) The penalties for unlicensed practice of a health care profession shall include the following:

(a)1. When the department has probable cause to believe that any person not licensed by the department, or the appropriate regulatory board within the department, has violated any provision of this chapter or any statute that relates to the practice of a profession regulated by the department, or any rule adopted pursuant thereto, the department may issue and deliver to such person a notice to cease and desist from such violation.

2. When the department has probable cause to believe that any licensed health care practitioner has engaged in the unlicensed practice of a health care profession by violating s. 456.65, the department may issue and deliver to such health care practitioner a notice to cease and desist from such violation and may pursue other remedies authorized under this section which apply to the unlicensed practice of a health care profession.

3. In addition to the remedies under subparagraphs 1. and 2., the department may issue and deliver a notice to cease and desist to any person who aids and abets the unlicensed practice of a profession by employing the ~~such unlicensed~~ person engaging in the unlicensed practice.

4. The issuance of a notice to cease and desist shall not

constitute agency action for which a hearing under ss. 120.569 and 120.57 may be sought. For the purpose of enforcing a cease and desist order, the department may file a proceeding in the name of the state seeking issuance of an injunction or a writ of mandamus against any person who violates any provisions of such order.

Section 3. Section 456.65, Florida Statutes, is created to read:

456.65 Specialties.—

(1)(a) A health care practitioner not licensed as a physician under chapter 458 may not hold himself or herself out to a patient or the public at large as a specialist by describing himself or herself or his or her practice through the use of any specialist title or designation specifically listed under s. 458.3312(2), either alone or in combination, or in connection with other words, unless the practitioner is authorized to use such specialist title or designation under subsection (3).

(b) A health care practitioner not licensed as a physician under chapter 459 may not hold himself or herself out to a patient or the public at large as a specialist by describing himself or herself or his or her practice through the use of any specialist title or designation specifically listed under s. 459.0152(2), either alone or in combination, or in connection with other words, unless the practitioner is authorized to use such specialist title or designation under subsection (3).

(2) A violation of subsection (1) constitutes the unlicensed practice of medicine or osteopathic medicine, as applicable, and the department may pursue remedies under s.

456.065 for such violation.

(3) Notwithstanding subsection (1):

(a) A licensed health care practitioner may use the name or title of his or her profession which is authorized under his or her practice act, and any corresponding designations or initials so authorized, to describe himself or herself and his or her practice.

(b) A licensed health care practitioner who has a specialty area of practice authorized under his or her practice act may use the following format to identify himself or herself or describe his or her practice: "...(name or title of the practitioner's profession)..., specializing in ...(name of the practitioner's specialty)...."

(c) A chiropractic physician licensed under chapter 460 may use the title "chiropractic radiologist" and other titles, abbreviations, or designations authorized under his or her practice act reflecting those chiropractic specialty areas in which the chiropractic physician has attained diplomate status as recognized by the American Chiropractic Association, the International Chiropractors Association, the International Academy of Clinical Neurology, or the International Chiropractic Pediatric Association.

(d) A podiatric physician licensed under chapter 461 may use the following titles and abbreviations as applicable to his or her license, specialty, and certification: "podiatric surgeon," "Fellow in the American College of Foot and Ankle Surgeons," and any other titles or abbreviations authorized under his or her practice act.

(e) A dentist licensed under chapter 466 may use the

following titles and abbreviations as applicable to his or her license, specialty, and certification: "doctor of dental surgery," "D.D.S.," "oral surgeon," "maxillofacial surgeon," "oral and maxillofacial surgeon," "O.M.S.," "dental anesthesiologist," "oral pathologist," "oral radiologist," and any other titles or abbreviations authorized under his or her practice act.

(f) An anesthesiologist assistant licensed under chapter 458 or chapter 459 may use the titles "anesthesiologist assistant" or "certified anesthesiologist assistant" and the abbreviations "A.A." or "C.A.A.," as applicable.

(g) A physician licensed under chapter 458 or chapter 459 may use a specialist title or designation according to s. 458.3312 or s. 459.0152, as applicable.

Section 4. Section 458.3312, Florida Statutes, is amended to read:

458.3312 Specialties.—

(1) A physician licensed under this chapter may not hold himself or herself out as a board-certified specialist unless the physician has received formal recognition as a specialist from a specialty board of the American Board of Medical Specialties or other recognizing agency that has been approved by the board. However, a physician may indicate the services offered and may state that his or her practice is limited to one or more types of services when this accurately reflects the scope of practice of the physician.

(2) Specialist titles and designations to which subsection (1) applies include:

(a) Surgeon.

(b) Neurosurgeon.
(c) General surgeon.
(d) Plastic surgeon.
(e) Thoracic surgeon.
(f) Allergist.
(g) Anesthesiologist.
(h) Cardiologist.
(i) Dermatologist.
(j) Endocrinologist.
(k) Gastroenterologist.
(l) Geriatrician.
(m) Gynecologist.
(n) Hematologist.
(o) Hospitalist.
(p) Immunologist.
(q) Intensivist.
(r) Internist.
(s) Laryngologist.
(t) Nephrologist.
(u) Neurologist.
(v) Neurotologist.
(w) Obstetrician.
(x) Oncologist.
(y) Ophthalmologist.
(z) Orthopedic surgeon.
(aa) Orthopedist.
(bb) Otologist.
(cc) Otolaryngologist.
(dd) Otorhinolaryngologist.

(ee) Pathologist.
(ff) Pediatrician.
(gg) Proctologist.
(hh) Psychiatrist.
(ii) Pulmonologist.
(jj) Radiologist.
(kk) Rheumatologist.
(ll) Rhinologist.
(mm) Urologist.

(3) The board may adopt by rule additional specialist titles and designations to which subsection (1) applies.

Section 5. Section 459.0152, Florida Statutes, is amended to read:

459.0152 Specialties.—

(1) An osteopathic physician licensed under this chapter may not hold himself or herself out as a board-certified specialist unless the osteopathic physician has successfully completed the requirements for certification by the American Osteopathic Association or the Accreditation Council on Graduate Medical Education and is certified as a specialist by a certifying agency approved by the board. However, an osteopathic physician may indicate the services offered and may state that his or her practice is limited to one or more types of services when this accurately reflects the scope of practice of the osteopathic physician.

(2) Specialist titles and designations to which subsection (1) applies include:

(a) Surgeon.
(b) Neurosurgeon.

(c) General surgeon.
(d) Plastic surgeon.
(e) Thoracic surgeon.
(f) Allergist.
(g) Anesthesiologist.
(h) Cardiologist.
(i) Dermatologist.
(j) Endocrinologist.
(k) Gastroenterologist.
(l) Geriatrician.
(m) Gynecologist.
(n) Hematologist.
(o) Hospitalist.
(p) Immunologist.
(q) Intensivist.
(r) Internist.
(s) Laryngologist.
(t) Nephrologist.
(u) Neurologist.
(v) Neurotologist.
(w) Obstetrician.
(x) Oncologist.
(y) Ophthalmologist.
(z) Orthopedic surgeon.
(aa) Orthopedist.
(bb) Otologist.
(cc) Otolaryngologist.
(dd) Otorhinolaryngologist.
(ee) Pathologist.

(ff) Pediatrician.
(gg) Proctologist.
(hh) Psychiatrist.
(ii) Pulmonologist.
(jj) Radiologist.
(kk) Rheumatologist.
(ll) Rhinologist.
(mm) Urologist.

(3) The board may adopt by rule additional specialist titles and designations to which subsection (1) applies.

Section 6. This act shall take effect July 1, 2025.

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/CS/SB 184
INTRODUCER:	Appropriations Committee on Transportation, Tourism, and Economic Development; Community Affairs Committee and Senator Gaetz
SUBJECT:	Affordable Housing
DATE:	March 31, 2025 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Fleming	Fleming	CA	**Fav/CS**
2.	Nortelus	Nortelus	ATD	**Fav/CS**
3.	Fleming	Yeatman	RC	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 184 proposes three changes to current law relating to the development and supply of affordable housing. First, the bill requires each county and municipality to enact an ordinance to allow accessory dwelling units (ADU) in all single-family residential areas to increase the availability of affordable rentals for low-and moderate-income persons. Under current law, local governments are authorized, but not required, to enact such ordinance. The bill provides that the owner of a property with an ADU may not be denied a homestead exemption for those portions of property on which the owner maintains a permanent residence solely on the basis of the property containing an ADU. An AUD may be a manufactured home, so long as the manufactured home meets all applicable requirements. The bill provides that an AUD approved under an ordinance may not be leased for a term of less than one month.

The bill also allows certain land donated to a local government for affordable housing to be used to provide affordable housing to military families receiving the basic allowance for housing. Current law establishes a system in which local governments may issue density bonuses to landowners that donate land to the local government for affordable housing, and the density bonus can be used anywhere within the jurisdiction that allows residential development.

Finally, the bill directs the Office of Program Policy Analysis and Government Accountability (OPPAGA) to evaluate the efficacy of using mezzanine finance, or second position short-term

debt, to stimulate the construction of owner-occupied affordable housing, and evaluate potential for tiny homes to meet affordable housing needs.

The bill has a negative, insignificant fiscal impact on OPPAGA which can be absorbed within existing resources. See Section V. Fiscal Impact Statement.

The bill takes effect on July 1, 2025.

II. Present Situation:

Affordable Housing

One major goal at all levels of government is to ensure that citizens have access to affordable housing. Housing is considered affordable when it costs less than 30 percent of a family's gross income. A family paying more than 30 percent of its income for housing is considered "cost burdened," while those paying more than 50 percent are considered "extremely cost burdened." Severely cost burdened households are more likely to sacrifice other necessities such as healthy food and healthcare to pay for housing, and to experience unstable housing situations such as eviction.

Affordable housing is defined in terms of household income. Resident eligibility for Florida's state and federally funded housing programs is typically governed by area median income (AMI) levels. These levels are published annually by the U.S. Department of Housing and Urban Development (HUD) for every county and metropolitan area.[1] Florida Statutes categorizes the levels of household income as follows:

- Extremely low income – earning up to 30 percent AMI;[2]
- Very low income – earning from 30.01 to 50 percent AMI;[3]
- Low income – earning from 50.01 to percent AMI;[4] and
- Moderate income – earning from 80.01 to 120 percent of AMI.[5]

Florida Housing Finance Corporation

The 1997 Legislature created the Florida Housing Finance Corporation (FHFC) as a public-private entity to assist in providing a range of affordable housing opportunities for Floridians.[6] The FHFC is a corporation held by the state and housed within the Department of Commerce (department). The FHFC is a separate budget entity and its operations, including those relating to personnel, purchasing, transactions involving real or personal property, and budgetary matters, are not subject to control, supervision, or direction by the department.[7]

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[1] U.S. Department of Housing and Urban Development, *Income Limits*, *Access Individual Income Limits Areas – Click Here for FY 2024 IL Documentation*, available at https://www.huduser.gov/portal/datasets/il.html (last visited Feb. 16, 2025).
[2] Section 420.0004(9), F.S.
[3] Section 420.0004(17), F.S.
[4] Section 420.0004(11), F.S.
[5] Section 420.0004(12), F.S.
[6] Chapter 97-167, Laws of Fla. From 1980 through 1997, the former Florida Housing Finance Agency, placed within the former Department of Community Affairs, performed similar duties.
[7] Section 420.504(1), F.S.

The goal of the FHFC is to increase the supply of safe, affordable housing for individuals and families with very low to moderate incomes by stimulating investment of private capital and encouraging public and private sector housing partnerships. As a financial institution, the FHFC administers federal and state resources to finance the development and preservation of affordable rental housing and assist homebuyers with financing and down payment assistance.

Funding for Affordable Housing

The FHFC draws and administers funds from federal programs through federal tax credits and the HUD,[8] from the state through the State Housing Trust Fund and Local Government Housing Trust Fund,[9] both funded by documentary stamp taxes, as well as ad hoc individual legislative appropriations, and through program income, which consists primarily of funds from successful loan repayment that is recycled into the program it came from.

Multifamily Affordable Housing Development

The primary state program for the development of multifamily rental housing is the State Apartment Incentive Loan (SAIL) Program, administered by the FHFC. The SAIL program provides low-interest loans on a competitive basis to multifamily affordable housing developers,[10] used to bridge the gap between the development's primary financing and the total cost of the development. SAIL dollars are available for developers proposing to construct or substantially rehabilitate multifamily rental housing[11] and who agree to set-aside a specified number of units for households at certain AMI levels.

Additionally, local governments can participate in the development of multifamily rental through the State Housing Incentive Partnership (SHIP) Program. Also administered through the FHFC, the SHIP program provides funds to all 67 counties and 52 Community Development Block Grant[12] entitlement cities on a population-based formula to finance and preserve affordable housing based on locally adopted housing plans. SHIP funds may be used to pay for emergency repairs, rehabilitation, down payment and closing cost assistance, impact fees, construction and gap financing, mortgage buydowns, acquisition of property for affordable housing, matching dollars for federal housing grants and programs, and homeownership counseling.[13]

Homeownership Assistance

The state's primary homeownership assistance program is the Hometown Hero Program,[14] administered by the FHFC. Under the program, eligible first-time homebuyers have access to a zero-interest second mortgage to reduce the amount of down payment and closing costs by a minimum of $10,000 and up to 5 percent of the first mortgage loan, not exceeding $35,000.

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[8] *See* ss. 420.507(33) and 159.608, F.S.
[9] Section 201.15, F.S.
[10] Section 420.5087, F.S.
[11] See Florida Housing Finance Corporation, *State Apartment Incentive Loan*, available at https://floridahousing.org/programs/developers-multifamily-programs/state-apartment-incentive-loan (last visited February 24, 2025).
[12] The CDBG program is a federal program created in 1974 that provides funding for housing and community development activities.
[13] Section 420.072(7), F.S.
[14] Section 420.5096, F.S.

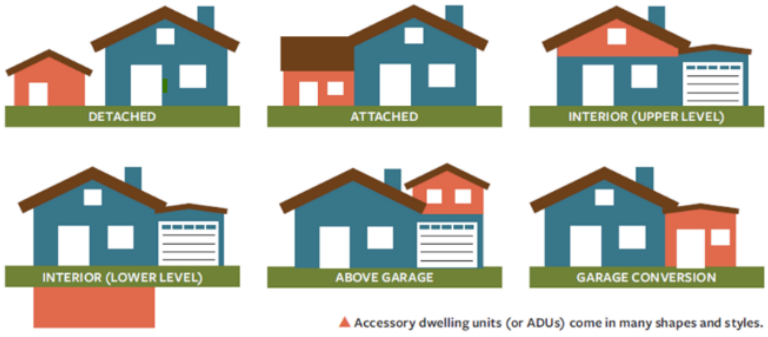
Loans must be repaid when the property is sold, refinanced, rented, or transferred unless otherwise approved by the FHFC.

Additionally, many local governments also independently offer their own downpayment assistance programs, separate from the Hometown Hero Program, using SHIP funds, or other locally generated funds.

Accessory Dwelling Units

Accessory dwelling units, or ADUs, have been proposed as a way to add housing stock to address the country's housing crisis.[15] ADUs are independent living spaces, outfitted with their own kitchen, bathroom, and sleeping area, and located on the same lot as a primary dwelling, but are smaller in size.[16] Florida Statutes defines ADU as "an ancillary or secondary living unit that has a separate kitchen, bathroom, and sleeping area existing either within the same structure, or on the same lot, as the primary dwelling unit."[17]

ADUs go by many different names, including accessory apartments, secondary suites, and granny flats.[18] ADUs can be converted portions of existing homes (i.e., interior ADUs), additions to new or existing homes (i.e., attached ADUs), or new stand-alone accessory structures or converted portions of existing stand-alone accessory structures (i.e., detached ADUs).[19] The graphic below illustrates the various options for the construction or conversion of ADUs.



Source: AARP, ADUs Come in Many Shapes and Sizes[20]

[15] Joint Center for Housing Studies of Harvard University, *How Nonprofits Are Using Accessory Dwelling Units as an Affordable Housing Strategy*, Sept. 26, 2024, available at: https://www.jchs.harvard.edu/blog/how-nonprofits-are-using-accessory-dwelling-units-affordable-housing-strategy (last visited Feb. 24, 2025).
[16] *Id.*
[17] Section 163.31771(2)(a), F.S.
[18] American Planning Association, *Accessory Dwelling Units*, available at: https://www.planning.org/knowledgebase/accessorydwellings/ (last visited Feb. 24, 2025). ADUs are sometimes referred to as "granny flats" to denote their use in accommodating the housing needs of aging parents.
[19] *Id.*
[20] AARP, *AARP Livable Communities: ADUs Come in Many Shapes and Sizes*, available at: https://www.aarp.org/livable-communities/housing/info-2019/adus-come-in-many-shapes-and-styles.html (last visited Feb. 24, 2025).

Section 163.31771, F.S., finds that encouraging local governments to permit ADUs to increase the availability of affordable rentals serves a public purpose.[21] Current law expressly authorizes a local government to adopt an ordinance allowing ADUs in any area zoned for single-family residential use.[22] Further, an application for a building permit to construct an ADU must include an affidavit which attests that the unit will be rented at an affordable rate to an extremely-low-income, very-low-income, low-income, or moderate-income person or persons.[23]

The Florida Housing Coalition studied the extent to which local governments recognized ADUs in their land development regulations and found the following:

- Of Florida's 67 counties, 16 did not address any ADU in their land development codes; and
- Of the 15 most populous cities in Florida, 11 of them explicitly allow ADUs in single-family districts.[24]

Density Bonus Incentives for Land Donation

A common tool in boosting affordable housing supply is the use of density bonuses for affordable housing. Typically, a density bonus allows developers to exceed a project's zoning limitations, such as height or density restrictions, in exchange for including a certain number of affordable units in their development. As an affordable housing incentive, a jurisdiction may increase the maximum units allowable if a builder develops affordable housing units in exchange. The presence of bonus units will allow a developer to sell more homes or rent more apartments and thus help meet various financial feasibility criteria.[25]

Section 420.615, F.S., expressly authorizes local governments to provide density bonus incentives to landowners who voluntarily donate fee simple interest in real property to the local government for the purpose of assisting the local government in providing affordable housing.[26] The density bonus may be applied to any land within the local government's jurisdiction provided that residential use is an allowable use on the receiving land.[27] The local government may transfer all or a portion of the donated land to a nonprofit housing organization, such as a community land trust, housing authority, or community redevelopment agency, to be used for the production and preservation of permanently affordable housing. The donated land must be subject to deed restrictions to ensure that the property will be used for affordable housing.[28]

[21] Section 163.31771(1), F.S.
[22] Section 163.31771(3), F.S.
[23] Section 163.31771(4), F.S. The parameters defining the various income designations are specified in s 420.0004, F.S.
[24] *See* Florida Housing Coalition, *Accessory Dwelling Unit Guidebook*, April 2024, available at https://www.flhousing.org/wp-content/uploads/2019/08/ADU-Guidebook.pdf (last visited Feb. 24, 2025).
[25] Florida Housing Coalition, *Affordable Housing Incentive Strategies: A Guidebook for Affordable Housing Advisory Committee Members and Local Government Staff*, 2021, p. 49, available at: https://www.flhousing.org/wp-content/uploads/2021/08/8-4-21-AHAC-Guide-UPDATE.pdf (last visited Feb. 24, 2025).
[26] For purposes of this section, the terms "affordable," "extremely-low-income persons," "low-income persons," "moderate-income persons," and "very-low-income persons" have the same meaning as in s. 420.0004, F.S.
[27] Section 420.615(3), F.S.
[28] Section 420.615(6), F.S.

General Overview of Property Taxation

The ad valorem tax or "property tax" is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of a property as of January 1 of each year.[29] The property appraiser annually determines the "just value"[30] of property within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property's "taxable value."[31] The Florida Constitution prohibits the state from levying ad valorem taxes[32] and it limits the Legislature's authority to provide for property valuations at less than just value, unless expressly authorized.[33]

Homestead Exemptions

The Florida Constitution establishes homestead protections for certain residential real estate in the state in three distinct ways. First, it provides homesteads, property owned and maintained as a person's primary residence, with an exemption from taxes.[34] Second, the homestead provisions protect the homestead from forced sale by creditors.[35] Third, the homestead provisions delineate the restrictions a homestead owner faces when attempting to alienate or devise the homestead property.[36]

Every person having legal or equitable title to real estate and who maintains a permanent residence on the real estate is deemed to establish homestead property. Homestead property is eligible for a $25,000 tax exemption applicable to all ad valorem tax levies, including levies by school districts.[37] An additional exemption applies to homestead property value between $50,000 and $75,000. This exemption is adjusted annually for inflation from the 2024 value of $25,000 and does not apply to ad valorem taxes levied by school districts.[38]

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[29] Both real property and tangible personal property are subject to tax. Section 192.001(12), F.S., defines "real property" as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines "tangible personal property" as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

[30] Property must be valued at "just value" for purposes of property taxation, unless the Florida Constitution provides otherwise. FLA. CONST. Art VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm's-length transaction. *See, e.g., Walter v. Schuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *S. Bell Tel. & Tel. Co. v. Dade Cnty.*, 275 So. 2d 4 (Fla. 1973).

[31] *See* ss. 192.001(2) and (16), F.S.

[32] FLA. CONST. art. VII, s. 1(a).

[33] *See* FLA. CONST. art. VII, s. 4.

[34] FLA. CONST. art. VII, s. 6.

[35] FLA. CONST. art. X, s. 4.

[36] *Id.* at (c).

[37] FLA. CONST. art VII, s. 6(a).

[38] *Id.* The percent change in the Consumer Price Index for All Urban Consumers, U.S. City Average, all items 1967=100 is used to adjust the exemption, if such percent change is positive. *Id.* For the 2025 tax year, the exemption amount is $25,722. *See* Volusia County Property Appraiser, Homestead Exemption, https://vcpa.vcgov.org/exemption/homestead (last visited Feb. 24, 2025).

Save Our Homes Assessment Limitation and Portability

In 1992, Florida voters approved the Save Our Homes amendment to the Florida Constitution.[39] The Save Our Homes assessment limitation limits the amount that a homestead property's assessed value may increase annually to the lesser of 3 percent or the percentage increase in the Consumer Price Index.[40] The accumulated difference between the assessed value and the just value is the Save Our Homes benefit. The Save Our Homes assessment limitation is considered portable because a homestead property owner may transfer this benefit when moving from one homestead property to another.[41] Due to the homestead exemption effects and the Save Our Homes assessment limitation, many homestead properties enjoy significant tax savings.

Commercial Use of Homestead Property

Section 196.012(13), F.S., provides that " '[r]eal estate used and owned as a homestead' means real property to the extent provided in s. 6(a), Art. VII of the State Constitution, but less any portion thereof used for commercial purposes, with the title of such property being recorded in the official records of the county in which the property is located. Property rented for more than 6 months is presumed to be used for commercial purposes."[42]

Abandonment of Homestead Property

Both the homestead property tax exemption and the Save Our Homes assessment limitation may be lost by a property owner that abandons homestead property. Failure to maintain a homestead property as a permanent residence may constitute abandonment under certain circumstances.[43] Section 196.061(1), F.S., describes when renting a homestead property constitutes abandonment:

> "The rental of all or substantially all of a dwelling previously claimed to be a homestead for tax purposes shall constitute the abandonment of such dwelling as a homestead, and the abandonment continues until the dwelling is physically occupied by the owner. However, such abandonment of the homestead after January 1 of any year does not affect the homestead exemption for tax purposes for that particular year unless the property is rented for more than 30 days per calendar year for 2 consecutive years."

III. Effect of Proposed Changes:

Section 1 amends s. 163.31771, F.S., to require, instead of authorize, local governments to adopt an ordinance to allow ADUs in any area zoned for single-family residential use. An AUD may be a manufactured home, so long as the manufactured home meets all applicable requirements. The ordinance cannot require any increase in parking requirements to accommodate the ADU, may not require that the owner of a parcel with an ADU reside on such parcel, and does not

[39] FLA. CONST. art. VII, s. 4(d). The Florida Legislature implemented the Save Our Homes amendment in s. 193.155, F.S.
[40] FLA. CONST. art. VII, s. 4(d).
[41] *See* FLA. CONST. art. VII, s. 4(d)(8); *see also* s. 193.155, F.S.
[42] *See also* Florida Administrative Code Rule 12D-7.013(5): "Property used as a residence and also used by the owner as a place of business does not lose its homestead character. The two uses should be separated with that portion used as a residence being granted the exemption and the remainder being taxed."
[43] *See* ss. 196.031 and 193.155, F.S.

apply to a planned unit development or master planned community.[44] An AUD approved under the ordinance may not be leased for a term of less than one month.

The bill also provides that the owner of a property with an ADU may not be denied a homestead exemption for those portions of property on which the owner maintains a permanent residence solely on the basis of the property containing an ADU.

Section 2 amends s. 420.615, F.S., to expand the express authorization for local governments to grant density bonuses to landowners that donate land to the local government for the purpose of providing affordable housing, to specify that affordable housing includes housing for military families receiving the basic allowance for housing.

Section 3 directs OPPAGA to evaluate the efficacy of using mezzanine finance,[45] or second position short-term debt, to stimulate the construction of owner-occupied affordable housing. OPPAGA must also evaluate the potential of tiny homes to meet affordable housing needs in this state. OPPAGA must consult with the FHFC and the Shimberg Center for Housing Studies at the University of Florida and submit a report of its finding to the Legislature by December 31, 2026. The report must include recommendations for the structuring of a model mezzanine finance program.

Section 4 provides that the bill takes effect on July 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18(a) of the Florida Constitution provides, in part, that a county or municipality may not be bound by a general law requiring a county or municipality to spend funds or take an action that requires the expenditure of funds unless certain specified exemptions or exceptions are met. The bill may require counties and municipalities to expend funds associated with the requirement to enact an ordinance authorizing the use of ADUs. However, the mandate requirement does not apply to laws having an insignificant impact,[46] which for Fiscal Year 2025-2026 is forecast at

[44] "Planned unit development" or "master planned community" means an area of land that is planned and developed as a single entity or in approved stages with uses and structures substantially related to the character of the entire development, or a self-contained development in which the subdivision and zoning controls are applied to the project as a whole rather than to individual lots. Section 163.3202(b)2., F.S.

[45] A mezzanine loan is a debt-equity instrument that sits in a middle, or "mezzanine" position in the capital stack: below the mortgage, but above the equity. Because it is subordinate to direct loans and other types of senior debts, its paid after these other debts in the event of insolvency. Mezzanine loans are associated with higher risk because they are typically unsecured, or only have a junior lien on assets as collateral, and as such can command higher interest rates than traditional loans. However, mezzanine loans may provide more flexibility than direct loans, including flexible repayment terms, where the lender may agree to interest-only payments for initial periods. *See* Center for Public Enterprise. *Smoothing the Housing Investment Cycle. Part I.* July 2024. Available at: https://publicenterprise.org/wp-content/uploads/Smoothing-the-Housing-Investment-Cycle-Part-1.pdf (last visited Feb. 24, 2025).

[46] FLA. CONST. art. VII, s. 18(d).

approximately $2.4 million.[47] The aggregate cost for local governments to implement this provision is likely insignificant.

However, if the bill does qualify as a mandate, in order to be binding upon cities and counties, the bill must contain a finding of important state interest and be approved by a two-thirds vote of the membership of each house.

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:

Upon enactment of local ADU ordinances across the state, individuals may benefit from greater access to affordable rentals and single-family property owners may benefit from the resulting ADU rental income. Additionally, there may be opportunities to increase the supply of housing that is affordable for military families due to density bonus incentives.

C. Government Sector Impact:

Counties and municipalities will likely incur administrative expenses associated with the development and noticing of the ADU ordinance as required in section 1 of the bill. The bill requires OPPAGA to submit a report to the Legislature which will have a negative fiscal impact on the office which can be absorbed within existing resources.

VI. Technical Deficiencies:

None.

[47] An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times $0.10. See FLA. SENATE COMM. ON CMTY. AFFAIRS, Interim Report 2012-115: Insignificant Impact (Sept. 2011), available at: http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 163.31771 and 420.615.

This bill creates an undesignated section of Florida 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/CS by Appropriations Committee on Transportation, Tourism, and Economic Development on March 11, 2025:
The committee substitute:

- Provides that an ADU may be a manufactured home, so long as the manufactured home meets all applicable requirements.
- Provides that local government shall adopt an ordinance to allow an ADU, without any corresponding increase in parking requirements.
- Provides that each ADU which provides affordable housing allowed by an ordinance shall apply towards satisfying the affordable housing element in the local government's comprehensive plan.
- Provides that an ADU may not be leased for a term of less than one month.

CS by Community Affairs on February 18, 2025:
The committee substitute:

- Provides that a local government may not require that the owner of a parcel with an ADU reside on such parcel.
- Modifies the mezzanine finance provision to require OPPAGA to study the efficacy of using mezzanine finance, instead of directing FHFC to implement a model program, and requires OPPAGA to also evaluate tiny homes used for affordable housing.
- Provides that the owner of a property with an ADU may not be denied a homestead exemption solely on the basis of the property containing an ADU that is or may be rented to another person

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate . House

. . . . .

The Committee on Rules (Gaetz) recommended the following:

Senate Amendment (with title amendment)

Delete lines 38 - 77

and insert:

Section 1. Subsections (3) and (4) and present subsection (5) of section 163.31771, Florida Statutes, are amended, paragraph (h) is added to subsection (2) of that section, and a new subsection (5) is added to that section, to read:

163.31771 Accessory dwelling units.—

(2) As used in this section, the term:

(h) "Primary dwelling unit" means the existing or proposed

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single-family dwelling on the property where a proposed accessory dwelling unit would be located.

(3) By December 1, 2025, a local government shall ~~may~~ adopt an ordinance to allow accessory dwelling units in any area zoned for single-family residential use. Such ordinance must apply prospectively to accessory dwelling units permitted or constructed after the date the ordinance is adopted. Such ordinance may regulate the permitting, construction, and use of an accessory dwelling unit, but may not do any of the following:

(a) Prohibit the owner of an accessory dwelling unit from offering the accessory dwelling unit for rent, except as otherwise provided by law.

(b) Require that the owner of a parcel on which an accessory dwelling unit is constructed reside in the primary dwelling unit.

(c) Increase parking requirements on any parcel that can accommodate an additional motor vehicle on a driveway without impeding access to the primary dwelling unit.

(d) Require replacement parking if a garage, carport, or covered parking structure is converted to create an accessory dwelling unit.

(4) ~~An application for a building permit to construct an accessory dwelling unit must include an affidavit from the applicant which attests that the unit will be rented at an affordable rate to an extremely-low-income, very-low-income, low-income, or moderate-income person or persons.~~

~~(5)~~ Each accessory dwelling unit allowed by an ordinance adopted under this section which provides affordable rental housing shall apply toward satisfying the affordable housing

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component of the housing element in the local government's comprehensive plan under s. 163.3177(6)(f).

(5) The owner of a property with an accessory dwelling unit may not be denied a homestead exemption for those portions of property on which the owner maintains a permanent residence solely on the basis of the property containing an accessory dwelling unit that is or may be rented to another person. However, if the accessory dwelling unit is rented to another person, the accessory dwelling unit must be assessed separately from the homestead property and taxed according to its use.

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

And the title is amended as follows:

Delete lines 3 - 22

and insert:

163.31771, F.S.; defining the term "primary dwelling unit"; requiring, rather than authorizing, local governments to adopt an ordinance to allow accessory dwelling units in certain areas; requiring such ordinances to apply prospectively; prohibiting such ordinances from including certain requirements or prohibitions; deleting a requirement that an application for a building permit to construct an accessory dwelling unit include a certain affidavit; revising the accessory dwelling units that apply toward satisfying a certain component of a local government's comprehensive plan; prohibiting the denial of a homestead exemption for certain portions of property on a specified basis; requiring that a

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rented accessory dwelling unit be assessed separately from the homestead property and taxed according to its use;

By the Appropriations Committee on Transportation, Tourism, and Economic Development; the Committee on Community Affairs; and Senator Gaetz

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A bill to be entitled

An act relating to affordable housing; amending s. 163.31771, F.S.; revising the definition of the term "accessory dwelling unit" to include certain manufactured homes; requiring, rather than authorizing, local governments to adopt an ordinance to allow accessory dwelling units in certain areas; prohibiting such an ordinance from increasing parking requirements; prohibiting such an ordinance from including a specified requirement; providing applicability of such an ordinance; deleting a requirement that an application for a building permit to construct an accessory dwelling unit include a certain affidavit; revising the accessory dwelling units that apply toward satisfying a certain component of a local government's comprehensive plan; prohibiting the leasing of an accessory dwelling unit for a term of less than a specified timeframe; prohibiting the denial of a homestead exemption for certain portions of property on a specified basis; requiring that a rented accessory dwelling unit be assessed separately from the homestead property; amending s. 420.615, F.S.; authorizing a local government to provide a density bonus incentive to landowners who make certain real property donations to assist in the provision of affordable housing for military families; requiring the Office of Program Policy Analysis and Government Accountability to evaluate the efficacy of using mezzanine finance and

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the potential of tiny homes for specified purposes; requiring the office to consult with certain entities; requiring the office to submit a certain report to the Legislature by a specified date; providing an effective date.

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

Section 1. Paragraph (a) of subsection (2) and subsections (3), (4), and (5) of section 163.31771, Florida Statutes, are amended, and a new subsection (5) and subsection (6) are added to that section, to read:

163.31771 Accessory dwelling units.—

(2) As used in this section, the term:

(a) "Accessory dwelling unit" means an ancillary or secondary living unit, that has a separate kitchen, bathroom, and sleeping area, existing either within the same structure, or on the same lot, as the primary dwelling unit. An accessory dwelling unit may be a manufactured home, so long as the manufactured home meets all applicable requirements.

(3) A local government shall ~~may~~ adopt an ordinance to allow accessory dwelling units, without any corresponding increase in parking requirements, in any area zoned for single-family residential use. Such ordinance may not require that the owner of a parcel on which an accessory dwelling unit is constructed reside on such parcel and does not apply to a planned unit development or a master planned community as those terms are defined in s. 163.3202(5)(b)2.

(4) ~~An application for a building permit to construct an~~

~~accessory dwelling unit must include an affidavit from the applicant which attests that the unit will be rented at an affordable rate to an extremely-low-income, very-low-income, low-income, or moderate-income person or persons.~~

~~(5)~~ Each accessory dwelling unit allowed by an ordinance adopted under this section which provides affordable rental housing shall apply toward satisfying the affordable housing component of the housing element in the local government's comprehensive plan under s. 163.3177(6)(f).

(5) An accessory dwelling unit may not be leased for a term of less than one month.

(6) The owner of a property with an accessory dwelling unit may not be denied a homestead exemption for those portions of property on which the owner maintains a permanent residence solely on the basis of the property containing an accessory dwelling unit that is or may be rented to another person. However, if the accessory dwelling unit is rented to another person, the accessory dwelling unit must be assessed separately from the homestead property.

Section 2. Subsection (1) of section 420.615, Florida Statutes, is amended to read:

420.615 Affordable housing land donation density bonus incentives.—

(1) A local government may provide density bonus incentives pursuant to the provisions of this section to any landowner who voluntarily donates fee simple interest in real property to the local government for the purpose of assisting the local government in providing affordable housing, including housing that is affordable for military families receiving the basic

allowance for housing. Donated real property must be determined by the local government to be appropriate for use as affordable housing and must be subject to deed restrictions to ensure that the property will be used for affordable housing.

Section 3. The Office of Program Policy Analysis and Government Accountability (OPPAGA) shall evaluate the efficacy of using mezzanine finance, or second-position short-term debt, to stimulate the construction of owner-occupied housing that is affordable as defined in s. 420.0004(3), Florida Statutes, in this state. OPPAGA shall also evaluate the potential of tiny homes in meeting the need for affordable housing in this state. OPPAGA shall consult with the Florida Housing Finance Corporation and the Shimberg Center for Housing Studies at the University of Florida in conducting its evaluation. By December 31, 2026, OPPAGA shall submit a report of its findings to the President of the Senate and the Speaker of the House of Representatives. Such report must include recommendations for the structuring of a model mezzanine finance program.

Section 4. This act shall take effect July 1, 2025.

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/CS/SB 248
INTRODUCER:	Judiciary Committee; Education Pre-K-12 Committee and Senator Simon
SUBJECT:	Student Participation in Interscholastic and Intrascholastic Extracurricular Sports
DATE:	March 31, 2025 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Palazesi	Bouck	ED	**Fav/CS**
2.	Collazo	Cibula	JU	**Fav/CS**
3.	Palazesi	Yeatman	RC	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 248 expands the ability of home education program and private school students to participate in interscholastic or intrascholastic athletics at Florida High School Athletic Association (FHSAA) member schools.

The bill authorizes home education program students to participate on interscholastic athletic teams at any public school within their school district, provided they meet certain conditions.

The bill also:

- Authorizes middle or high school students attending a private school to participate in interscholastic or intrascholastic sports at a member public or private school if their private school does not offer their sport of interest, regardless of the private school's FHSAA membership status.
- Eliminates the requirement that students be enrolled in a non-FHSAA member private school consisting of 200 students or fewer to participate in the program in any given academic year.

The bill takes effect July 1, 2025.

II. Present Situation:

The Florida High School Athletic Association (FHSAA)

The Florida High School Athletic Association (FHSAA) is a nonprofit organization governing athletics in Florida public schools. Any public or private high school or middle school in this state, including charter schools, virtual schools, and home education cooperatives, may become a member of the FHSAA and participate in the activities of the FHSAA; however, membership in the FHSAA is not mandatory for any school.[1]

The FHSAA is required to adopt bylaws that:
- Establish eligibility requirements.
- Prohibit recruiting.
- Require all students to pass a medical evaluation each year.
- Regulate people who conduct investigations on behalf of the FHSAA.
- Establish sanctions for coaches who have committed major violations of FHSAA bylaws.
- Establish the process and standards by which the FHSAA determines eligibility.
- Adopt guidelines to educate athletic coaches, officials, administrators, and student athletes and their parents, of the risks associated with concussions and head injuries.
- Require the parents of students who are participating, or may participate, in interscholastic competition to sign and return an informed consent explaining the nature and risk of concussion and head injury.
- Adopt bylaws that require each student athlete who is suspected of sustaining a concussion or head injury in practice or in a competition to be immediately removed from the activity.
- Adopt bylaws for the establishment and duties of a sports medicine advisory committee.[2]

Each year, the FHSAA sponsors more than 3,500 championship series games, through which 144 teams and 294 individuals are crowned state champions in 32 sports. More than 800,000 students participate in these athletic programs annually.[3]

Florida law authorizes home education program students, and students who attend a charter school or the Florida Virtual School, to participate in interscholastic activities at a public school or at a private school. These students must:
- Meet requirements related to educational progress.
- Meet the same standards of acceptance, behavior, and performance that are required of other students in extracurricular activities.
- Register his or her intent to participate with the school.[4]

Home Education Program Student Participation in the FHSAA

A home education student is eligible to participate in FHSAA interscholastic activities at:

[1] Section 1006.20(1), F.S.
[2] Section 1006.20(2), F.S.
[3] Florida High School Athletic Association, *About FHSAA*, https://fhsaa.com/sports/2020/1/16/About.aspx (last visited Mar. 13, 2025).
[4] Section 1006.15(3)(c)-(e), F.S.

- The public school to which the student would be assigned based on the district school board's attendance area policies; or
- A public school the student could choose to attend under controlled open enrollment.

The student may also enter into an agreement with a private school to participate in that school's interscholastic activities.[5]

To be eligible, home education students must meet the following criteria:
- The home education student must meet the requirements of the home education program.[6]
- During the period of participation at a school, the home education student must demonstrate educational progress in all subjects taken in the home education program, using a method of evaluation agreed upon by the parent and the school principal.
- The home education student must meet the same residency requirements as other students in the school at which he or she participates.
- The home education student must meet the same standards of acceptance, behavior, and performance as required of other students in extracurricular activities.
- The student must register with the school his or her intent to participate in interscholastic extracurricular activities as a representative of the school before participation.
- A student who transfers from a home education program to a public school before or during the first grading period of the school year is academically eligible to participate in interscholastic extracurricular activities during the first grading period, provided the student has a successful evaluation from the previous school year.
- Any public school or private school student who has been unable to maintain academic eligibility for participation in interscholastic extracurricular activities is ineligible to participate in such activities as a home education student, until the student has successfully completed one grading period in home education.[7]

Private School Student Participation in the FHSAA

The FHSAA must work with each district school board, and its member private schools, to facilitate a program allowing middle or high school students in private schools to participate in interscholastic or intrascholastic sports at member public or private schools.[8]

Middle and high school students attending private schools are eligible to participate in interscholastic or intrascholastic sports at FHSAA member public or private schools if:
- The private school in which the student is enrolled is not a member of the FHSAA.
- The private school student meets program guidelines established by the FHSAA's board of directors and the district school board or the FHSAA member private school.[9]

[5] Section 1006.15(3)(c), F.S.; *see also* s. 1002.31, F.S. (regarding controlled open enrollment).
[6] *See* s. 1002.41, F.S. (regulating home education programs). A "home education program" means the sequentially progressive instruction of a student directed by his or her parent to satisfy certain statutory attendance requirements. Section 1002.01(1)(a), F.S. (referencing the attendance requirements of ss. 1002.41, 1003.01(16), and 1003.21(1), F.S.).
[7] Section 1006.15(3)(c), F.S.
[8] Section 1006.15(8)(a), F.S.
[9] *Id.*

The parents of a private school student participating in an FHSAA interscholastic or intrascholastic activity are responsible for transporting their child to and from the member school where the student participates. Each year, the private school student may only participate at the member school in which he or she registered, and the student must apply to participate in the program through the FHSAA. Only students enrolled in non-FHSAA member private schools having 200 or fewer students are eligible to participate at an FHSAA member school in any given academic year.[10]

III. Effect of Proposed Changes:

The bill amends s. 1006.15, F.S., which governs student standards for participation in interscholastic and intrascholastic extracurricular student activities, to expand the ability of home education program and private school students to participate in interscholastic or intrascholastic athletics at Florida High School Athletic Association (FHSAA) member schools.

The bill amends s. 1006.15(3)(c), F.S., to authorize students enrolled in a home education program to participate on interscholastic athletic teams at any public school within their school district, provided they reside in that district and meet the conditions otherwise specified in the statute.[11]

With respect to the program facilitating middle or high school students in private schools to participate in interscholastic or intrascholastic sports at member public or private schools, the bill amends s. 1006.15(8), F.S., to:

- Authorize middle or high school students attending a private school to participate in interscholastic or intrascholastic sports at a member public or private school if their private school does not offer their sport of interest, regardless of the private school's FHSAA membership status.
- Eliminate the requirement that students be enrolled in a non-FHSAA member private school consisting of 200 students or fewer to participate in the program in any given academic year.

Finally, the bill amends s. 1006.15(2), F.S., to clarify that for purposes of the statute, an FHSAA school offers an activity or a sport if it is expressly designated as one of the following based on biological sex at birth of team members: males, men, or boys; females, women, or girls; or coed or mixed, including both males and females.[12]

The bill takes effect July 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

[10] Section 1006.15(8)(b), (c), (f), and (g), F.S.
[11] *See* s. 1006.15(3)(c)1.-7., F.S. (providing the conditions).
[12] *See* s. 1006.205(3)(a), F.S. (requiring schools to be expressly designated).

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:

This bill does not have a fiscal impact on state revenues or expenditures.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 1006.15 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/CS by Judiciary on March 19, 2025:
The committee substitute revises the underlying bill to clarify how a private school student may determine whether an FHSAA school offers an activity or a sport for

purposes of s. 1006.15, F.S. Under the committee substitute, an FHSAA school offers an activity or a sport if it is expressly designated as one of the following based on biological sex at birth of team members: males, men, or boys; females, women, or girls; or coed or mixed, including both males and females.

CS by Education Pre-K-12 on March 11, 2025:
The committee substitute authorizes home education students to participate on an interscholastic athletic team at any public school within their school district of residence, provided they meet certain requirements.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate . House

. . . . .

The Committee on Rules (Simon) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Section 1006.15, Florida Statutes, is amended to read:

1006.15 Student standards for participation in interscholastic and intrascholastic extracurricular student activities; regulation.—

(1) SHORT TITLE.—This section may be cited as the "Craig Dickinson Act."

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(2) DETERMINATION.—Interscholastic extracurricular student activities are an important complement to the academic curriculum. Participation in a comprehensive extracurricular and academic program contributes to student development of the social and intellectual skills necessary to become a well-rounded adult. When determining whether a school offers an activity or sport, the activity or sport must be in the same designation required by s. 1006.205(3)(a) ~~As used in this section, the term "extracurricular" means any school-authorized or education-related activity occurring during or outside the regular instructional school day~~.

(3) DEFINITIONS.—As used in this section and in s. 1006.20, the term:

(a) "Eligible student" includes home education students, charter school students, private school students, Florida Virtual School students, alternative school students, and traditional public school students who wish to participate in an interscholastic or intrascholastic extracurricular activity.

(b)1. ~~(3)(a) As used in this section and s. 1006.20, the term~~ "Eligible to participate" includes, but is not limited to, a student participating in:

a. Tryouts.~~,~~

b. Off-season conditioning.~~,~~

c. Summer workouts.~~,~~

d. Preseason conditioning.~~,~~

e. In-season practice.~~,~~

f. ~~or~~ Contests.

2. The term does not mean that a student must be placed on any specific team for interscholastic or intrascholastic

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extracurricular activities. To be eligible to participate in interscholastic extracurricular student activities, a student must:

a.~~1.~~ Maintain a grade point average of 2.0 or above on a 4.0 scale, or its equivalent, in the previous semester or a cumulative grade point average of 2.0 or above on a 4.0 scale, or its equivalent, in the courses required by s. 1002.3105(5) or s. 1003.4282.

b.~~2.~~ Execute and fulfill the requirements of an academic performance contract between the student, the district school board, the appropriate governing association, and the student's parents, if the student's cumulative grade point average falls below 2.0, or its equivalent, on a 4.0 scale in the courses required by s. 1002.3105(5) or s. 1003.4282. At a minimum, the contract must require that the student attend summer school, or its graded equivalent, between grades 9 and 10 or grades 10 and 11, as necessary.

c.~~3.~~ Have a cumulative grade point average of 2.0 or above on a 4.0 scale, or its equivalent, in the courses required by s. 1002.3105(5) or s. 1003.4282 during his or her junior or senior year.

d.~~4.~~ Maintain satisfactory conduct, including adherence to appropriate dress and other codes of student conduct policies described in s. 1006.07(2). If a student is convicted of, or is found to have committed, a felony or a delinquent act that would have been a felony if committed by an adult, regardless of whether adjudication is withheld, the student's participation in interscholastic extracurricular activities is contingent upon established and published district school board policy.

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3.~~(b)~~ Any student who is exempt from attending a full school day based on rules adopted by the district school board for double session schools or programs, experimental schools, or schools operating under emergency conditions must maintain the grade point average required by this section and pass each class for which he or she is enrolled.

(c) "Extracurricular" means any school-authorized or education-related activity occurring during or outside the regular instructional school day.

(4) ELIGIBILITY.—

(a)~~(c)~~ A ~~An individual home education~~ student is eligible to participate in an interscholastic or intrascholastic extracurricular activity at the school he or she attends.

1. An eligible student may participate at a school other than the school in which the student is enrolled if the school in which the student is enrolled does not offer the same interscholastic or intrascholastic extracurricular activity.

2. A student may participate at a school in which he or she is not currently enrolled if the school is one the student would otherwise be zoned for or, for home education students, the student participates as part of a team of home education cooperatives.

(b) If the school for which the student would otherwise be zoned for does not offer the interscholastic or intrascholastic extracurricular activity, the student may participate at any public school appropriate for the student's grade level, including charter schools, in the school district in which the student resides, or at any private school appropriate for the student's grade level, in the school district in which the

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student resides, if an agreement is made with the private school.

(c) If a school in the district in which the student resides does not offer the interscholastic or intrascholastic extracurricular activity, or an agreement cannot be reached with a private school in the district in which the student resides, the student may participate at a public school appropriate for the student's grade level, including a charter school, outside of his or her district, or at a private school appropriate for the student's grade level, outside of his or her district, if an agreement is made with the private school. The school must be in a district adjacent to the district in which the student resides. ~~at the public school to which the student would be assigned according to district school board attendance area policies or which the student could choose to attend pursuant to s. 1002.31, or may develop an agreement to participate at a private school, in the interscholastic extracurricular activities of that school, provided the following conditions are met:~~

~~1. The home education student must meet the requirements of the home education program pursuant to s. 1002.41.~~

~~2. During the period of participation at a school, the home education student must demonstrate educational progress as required in paragraph (b) in all subjects taken in the home education program by a method of evaluation agreed upon by the parent and the school principal which may include: review of the student's work by a certified teacher chosen by the parent; grades earned through correspondence; grades earned in courses taken at a Florida College System institution, university, or~~

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~~trade school; standardized test scores above the 35th percentile; or any other method designated in s. 1002.41.~~

~~3. The home education student must meet the same residency requirements as other students in the school at which he or she participates.~~

~~4. The home education student must meet the same standards of acceptance, behavior, and performance as required of other students in extracurricular activities.~~

~~5. The student must register with the school his or her intent to participate in interscholastic extracurricular activities as a representative of the school before participation. A home education student must be able to participate in curricular activities if that is a requirement for an extracurricular activity.~~

~~6. A student who transfers from a home education program to a public school before or during the first grading period of the school year is academically eligible to participate in interscholastic extracurricular activities during the first grading period provided the student has a successful evaluation from the previous school year, pursuant to subparagraph 2.~~

~~7. Any public school or private school student who has been unable to maintain academic eligibility for participation in interscholastic extracurricular activities is ineligible to participate in such activities as a home education student until the student has successfully completed one grading period in home education pursuant to subparagraph 2. to become eligible to participate as a home education student.~~

~~(d) An individual charter school student pursuant to s. 1002.33 is eligible to participate at the public school to which~~

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~~the student would be assigned according to district school board attendance area policies or which the student could attend, or may develop an agreement to participate at a private school, in any interscholastic extracurricular activity of that school, unless such activity is provided by the student's charter school, if the following conditions are met:~~

~~1. The charter school student must meet the requirements of the charter school education program as determined by the charter school governing board.~~

~~2. During the period of participation at a school, the charter school student must demonstrate educational progress as required in paragraph (b).~~

~~3. The charter school student must meet the same residency requirements as other students in the school at which he or she participates.~~

~~4. The charter school student must meet the same standards of acceptance, behavior, and performance that are required of other students in extracurricular activities.~~

~~5. The charter school student must register with the school his or her intent to participate in interscholastic extracurricular activities as a representative of the school before participation. A charter school student must be able to participate in curricular activities if that is a requirement for an extracurricular activity.~~

~~6. A student who transfers from a charter school program to a traditional public school before or during the first grading period of the school year is academically eligible to participate in interscholastic extracurricular activities during the first grading period if the student has a successful~~

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~~evaluation from the previous school year pursuant to subparagraph 2.~~

~~7. Any public school or private school student who has been unable to maintain academic eligibility for participation in interscholastic extracurricular activities is ineligible to participate in such activities as a charter school student until the student has successfully completed one grading period in a charter school pursuant to subparagraph 2. to become eligible to participate as a charter school student.~~

~~(c) A student of the Florida Virtual School full-time program may participate in any interscholastic extracurricular activity at the public school to which the student would be assigned according to district school board attendance area policies or which the student could choose to attend pursuant to s. 1002.31, or may develop an agreement to participate at a private school, if the student:~~

~~1. During the period of participation in the interscholastic extracurricular activity, meets the requirements in paragraph (a).~~

~~2. Meets any additional requirements as determined by the board of trustees of the Florida Virtual School.~~

~~3. Meets the same residency requirements as other students in the school at which he or she participates.~~

~~4. Meets the same standards of acceptance, behavior, and performance that are required of other students in extracurricular activities.~~

~~5. Registers his or her intent to participate in interscholastic extracurricular activities with the school before participation. A Florida Virtual school student must be~~

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able to participate in curricular activities if that is a requirement for an extracurricular activity.

(f) A student who transfers from the Florida Virtual School full-time program to a traditional public school before or during the first grading period of the school year is academically eligible to participate in interscholastic extracurricular activities during the first grading period if the student has a successful evaluation from the previous school year pursuant to paragraph (a).

(g) A public school or private school student who has been unable to maintain academic eligibility for participation in interscholastic extracurricular activities is ineligible to participate in such activities as a Florida Virtual School student until the student successfully completes one grading period in the Florida Virtual School pursuant to paragraph (a).

(h) An individual traditional public school student who is otherwise eligible to participate in interscholastic extracurricular activities may either participate in any such activity at any public school in the school district in which the student resides or develop an agreement to participate in such activity at a private school, unless the activity is provided by the student's traditional public school. Such student must:

1. Meet the same standards of acceptance, behavior, and performance that are required of other students in extracurricular activities at the school at which the student wishes to participate.

2. Before participation, register with the school his or her intent to participate in interscholastic extracurricular

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~~activities as a representative of the school. The student must be able to participate in curricular activities if that is a requirement for an extracurricular activity.~~

~~(i)1. A school district or charter school may not delay eligibility or otherwise prevent a student participating in controlled open enrollment, or a choice program, from being immediately eligible to participate in interscholastic and intrascholastic extracurricular activities.~~

~~2. A student may not participate in a sport if the student participated in that same sport at another school during that school year, unless the student meets one of the following criteria:~~

~~a. Dependent children of active duty military personnel whose move resulted from military orders.~~

~~b. Children who have been relocated due to a foster care placement in a different school zone.~~

~~c. Children who move due to a court-ordered change in custody due to separation or divorce, or the serious illness or death of a custodial parent.~~

~~d. Authorized for good cause in district or charter school policy.~~

(5) BEGINNING APPLICABILITY. ~~(4)~~ The student standards for participation in interscholastic extracurricular activities must be applied beginning with the student's first semester of the 9th grade. Each student must meet such other requirements for participation as may be established by the district school board; however, a district school board may not establish requirements for participation in interscholastic extracurricular activities which make participation in such

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activities less accessible to home education students than to other students. ~~Except as set forth in paragraph (3)(c), evaluation processes or requirements that are placed on home education student participants may not go beyond those that apply under s. 1002.41 to home education students generally.~~

(6) REGULATING OR GOVERNING ORGANIZATIONS.—

~~(5)~~ Any organization or entity that regulates or governs interscholastic extracurricular activities of ~~public~~ schools:

(a) Shall permit home education associations to join as member schools.

(b) Shall not discriminate against any eligible student based on an educational choice of public, private, or home education.

(c) Shall adopt bylaws to ensure, to the maximum extent possible, that students have access to interscholastic or intrascholastic extracurricular activities without limitation on their educational choice options.

(7) PROHIBITED MEMBERSHIPS.—~~(6)~~ Public schools are prohibited from membership in any organization or entity which regulates or governs interscholastic extracurricular activities and discriminates against eligible students in public, private, or home education.

(8) INSURANCE.—~~(7)~~ Any insurance provided by district school boards for participants in extracurricular activities shall cover any eligible student ~~the participating home education student~~. ~~If there is an additional premium for such coverage, the participating home education student shall pay the premium.~~

~~(8)(a) The Florida High School Athletic Association (FHSAA)~~

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~~shall, in cooperation with each district school board and its member private schools, facilitate a program in which a middle school or high school student who attends a private school is eligible to participate in an interscholastic or intrascholastic sport at a member public high school, a member public middle school, a member 6-12 public school, or a member private school, as appropriate for the private school student's grade level, if:~~

~~1. The private school in which the student is enrolled is not a member of the FHSAA.~~

~~2. The private school student meets the guidelines for the conduct of the program established by the FHSAA's board of directors and the district school board or member private school. At a minimum, such guidelines must provide a deadline for each sport by which the private school student's parents must register with the member school in writing their intent for their child to participate at that school in the sport.~~

~~(b) The parents of a private school student participating in a member school sport under this subsection are responsible for transporting their child to and from the member school at which the student participates. The private school the student attends, the member school at which the student participates in a sport, the district school board, and the FHSAA are exempt from civil liability arising from any injury that occurs to the student during such transportation.~~

~~(c) For each academic year, a private school student may only participate at the member school in which the student is first registered under subparagraph (a)2. or makes himself or herself a candidate for an athletic team by engaging in a practice.~~

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(9) SCHOOL RESPONSIBILITIES.—

(a) ~~(d)~~ The athletic director of each participating Florida High School Athletic Association (FHSAA) ~~FHSAA~~ member school shall maintain the student records necessary for eligibility, compliance, and participation for all eligible students participating in interscholastic or intrascholastic extracurricular activities at the member school ~~in the program~~.

(b) ~~(c)~~ Any ~~non-FHSAA member private~~ school that has a student who wishes to participate in interscholastic or intrascholastic extracurricular activities at another school ~~this program~~ must make all student records, including, but not limited to, academic, financial, disciplinary, and attendance records, available upon request of the FHSAA.

(c) ~~(f)~~ A student must apply to participate in an interscholastic or intrascholastic extracurricular activity at a school other than the school in which the student is enrolled ~~this program~~ through the FHSAA ~~program~~ application process, as provided for in FHSAA bylaws.

(d) The parents of the student participating in the activity must provide for the transportation of the student to and from the school at which the student participates. The school in which the student is enrolled, the school at which the student participates in the activity, and the district school board are exempt from civil liability arising from any injury that occurs to the student during such transportation.

(10) STUDENT TRANSFERS.—A student may not participate in a sport if the student participated in that same sport at another school during that school year, unless granted approval by the FHSAA executive director.

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(a) The FHSAA must provide a determination of eligibility to the otherwise eligible student within 14 days after such a request is made.

(b) The FHSAA must adopt bylaws establishing the criteria used in determination of eligibility of students pursuant to this subsection.

(c) A student who was denied eligibility may appeal the decision from the FHSAA pursuant to s. 1006.20(7). The FHSAA must adopt bylaws establishing a timeline for appeals that may not exceed 20 days.

(d) Decisions made by the committee on appeals, the executive director, or his or her designee, and the FHSAA board of directors must be posted online in a searchable format and in compliance with ss. 1002.22 and 1002.221.

(11) RULEMAKING.—The FHSAA may adopt additional bylaws to implement this section.

~~(g) Only students who are enrolled in non-FHSAA member private schools consisting of 200 students or fewer are eligible to participate in the program in any given academic year.~~

~~(9)(a) A student who transfers to a school during the school year may seek to immediately join an existing team if the roster for the specific interscholastic or intrascholastic extracurricular activity has not reached the activity's identified maximum size and if the coach for the activity determines that the student has the requisite skill and ability to participate. The FHSAA and school district or charter school may not declare such a student ineligible because the student did not have the opportunity to comply with qualifying requirements.~~

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~~(b) A student may not participate in a sport if the student participated in that same sport at another school during that school year, unless the student meets one of the following criteria:~~

~~1. Dependent children of active duty military personnel whose move resulted from military orders.~~

~~2. Children who have been relocated due to a foster care placement in a different school zone.~~

~~3. Children who move due to a court-ordered change in custody due to separation or divorce, or the serious illness or death of a custodial parent.~~

~~4. Authorized for good cause in district or charter school policy.~~

~~(10) A student who participates in an interscholastic or intrascholastic activity at a public school and who transfers from that school during the school year must be allowed to continue to participate in the activity at that school for the remainder of the school year if:~~

~~(a) During the period of participation in the activity, the student continues to meet the requirements specified in paragraph (3)(a).~~

~~(b) The student continues to meet the same standards of acceptance, behavior, and performance which are required of other students participating in the activity, except for enrollment requirements at the school at which the student participates.~~

~~(c) The parents of the student participating in the activity provide for the transportation of the student to and from the school at which the student participates. The school~~

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~~the student attends, the school at which the student participates in the activity, and the district school board are exempt from civil liability arising from any injury that occurs to the student during such transportation.~~

Section 2. Subsection (11) of section 1002.33, Florida Statutes, is amended to read:

1002.33 Charter schools.—

(11) PARTICIPATION IN INTERSCHOLASTIC EXTRACURRICULAR ACTIVITIES.—A charter school student is eligible to participate in an interscholastic extracurricular activity at the public school to which the student would be otherwise assigned to attend, or may develop an agreement to participate at a private school, pursuant to s. 1006.15 ~~s. 1006.15(3)(d)~~.

Section 3. Paragraphs (a) and (b) of subsection (1) of section 1006.195, Florida Statutes, are amended to read:

1006.195 District school board, charter school authority and responsibility to establish student eligibility regarding participation in interscholastic and intrascholastic extracurricular activities.—Notwithstanding any provision to the contrary in ss. 1006.15, 1006.18, and 1006.20, regarding student eligibility to participate in interscholastic and intrascholastic extracurricular activities:

(1)(a) A district school board must establish, through its code of student conduct, student eligibility standards and related student disciplinary actions regarding student participation in interscholastic and intrascholastic extracurricular activities. The code of student conduct must provide that:

1. A student not currently suspended from interscholastic

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or intrascholastic extracurricular activities, or suspended or expelled from school, pursuant to a district school board's suspension or expulsion powers provided in law, including ss. 1006.07, 1006.08, and 1006.09, is eligible to participate in interscholastic and intrascholastic extracurricular activities.

2. A student may not participate in a sport if the student participated in that same sport at another school during that school year, unless the student meets the criteria in s. 1006.15 ~~s. 1006.15(3)(i)~~.

3. A student's eligibility to participate in any interscholastic or intrascholastic extracurricular activity may not be affected by any alleged recruiting violation until final disposition of the allegation pursuant to s. 1006.20(2)(b).

(b) Students who participate in interscholastic and intrascholastic extracurricular activities for, but are not enrolled in, a public school pursuant to s. 1006.15 ~~s. 1006.15(3)(c)-(e) and (8)~~, are subject to the district school board's code of student conduct for the limited purpose of establishing and maintaining the student's eligibility to participate at the school.

Section 4. Paragraph (c) of subsection (2) of section 1006.20, Florida Statutes, is amended to read:

1006.20 Athletics in public K-12 schools.—

(2) ADOPTION OF BYLAWS, POLICIES, OR GUIDELINES.—

(c) The FHSAA shall adopt bylaws that require all students participating in interscholastic athletic competition or who are candidates for an interscholastic athletic team to satisfactorily pass a medical evaluation each year before participating in interscholastic athletic competition or

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engaging in any practice, tryout, workout, conditioning, or other physical activity associated with the student's candidacy for an interscholastic athletic team, including activities that occur outside of the school year. Such medical evaluation may be administered only by a practitioner licensed under chapter 458, chapter 459, chapter 460, or s. 464.012 or registered under s. 464.0123 and in good standing with the practitioner's regulatory board. The bylaws shall establish requirements for eliciting a student's medical history and performing the medical evaluation required under this paragraph, which shall include a physical assessment of the student's physical capabilities to participate in interscholastic athletic competition as contained in a uniform preparticipation physical evaluation and history form. The evaluation form shall incorporate the recommendations of the American Heart Association for participation cardiovascular screening and shall provide a place for the signature of the practitioner performing the evaluation with an attestation that each examination procedure listed on the form was performed by the practitioner or by someone under the direct supervision of the practitioner. The form shall also contain a place for the practitioner to indicate if a referral to another practitioner was made in lieu of completion of a certain examination procedure. The form shall provide a place for the practitioner to whom the student was referred to complete the remaining sections and attest to that portion of the examination. The preparticipation physical evaluation form shall advise students to complete a cardiovascular assessment and shall include information concerning alternative cardiovascular evaluation and diagnostic tests. Results of such medical evaluation must be

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provided to the school. A student is not eligible to participate, as provided in s. 1006.15 ~~s. 1006.15(3)~~, in any interscholastic athletic competition or engage in any practice, tryout, workout, or other physical activity associated with the student's candidacy for an interscholastic athletic team until the results of the medical evaluation have been received and approved by the school.

Section 5. This act shall take effect July 1, 2025.

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

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to student participation in interscholastic and intrascholastic extracurricular sports; amending s. 1006.15, F.S.; providing a requirement for determining whether a school offers an activity or sport; defining terms; revising requirements for student eligibility; deleting a provision relating to evaluation processes for home education student participants; requiring an organization that regulates interscholastic extracurricular activities to adopt certain bylaws; deleting provisions relating to the Florida High School Athletic Association (FHSAA) cooperating with entities to facilitate student participation in certain activities; deleting obsolete language; revising school responsibilities; providing

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requirements for student transfers; requiring the FHSAA to make an eligibility determination within a specified timeframe; requiring the FHSAA to adopt bylaws to establish criteria for appeals of eligibility determinations; requiring the FHSAA to publish online decisions on student eligibility; authorizing the FHSAA to adopt additional bylaws; deleting provisions limiting eligibility to certain non-FHSAA member private schools' students; deleting provisions relating to participation requirements for certain transfer students; amending ss. 1002.33, 1006.195, and 1006.20, F.S.; conforming cross-references; providing an effective date.

By the Committees on Judiciary; and Education Pre-K - 12; and Senator Simon

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A bill to be entitled

An act relating to student participation in interscholastic and intrascholastic extracurricular sports; amending s. 1006.15, F.S.; providing that an activity or a sport must meet specified requirements; specifying conditions for a home education student to participate in interscholastic athletics; revising the criteria a private school student must meet to participate in a sport at a Florida High School Athletic Association (FHSAA) member school; deleting a provision limiting which non-FHSAA member private school students are eligible to participate in FHSAA sports; providing an effective date.

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

Section 1. Subsection (2), paragraph (c) of subsection (3), and paragraphs (a), (e), and (g) of subsection (8) of section 1006.15, Florida Statutes, are amended to read:

1006.15 Student standards for participation in interscholastic and intrascholastic extracurricular student activities; regulation.—

(2) Interscholastic extracurricular student activities are an important complement to the academic curriculum. Participation in a comprehensive extracurricular and academic program contributes to student development of the social and intellectual skills necessary to become a well-rounded adult. As used in this section, the term "extracurricular" means any school-authorized or education-related activity occurring during

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or outside the regular instructional school day. In the determination of whether a school offers an activity or a sport, the activity or sport must meet the designation requirements of s. 1006.205(3)(a).

(3)

(c)1. An individual home education student is eligible to participate at the public school to which the student would be assigned according to district school board attendance area policies or which the student could choose to attend pursuant to s. 1002.31, or may develop an agreement to participate at a private school, in the interscholastic extracurricular activities of that school, provided the following conditions are met:

a.~~1.~~ The home education student must meet the requirements of the home education program pursuant to s. 1002.41.

b.~~2.~~ During the period of participation at a school, the home education student must demonstrate educational progress as required in paragraph (b) in all subjects taken in the home education program by a method of evaluation agreed upon by the parent and the school principal which may include: review of the student's work by a certified teacher chosen by the parent; grades earned through correspondence; grades earned in courses taken at a Florida College System institution, university, or trade school; standardized test scores above the 35th percentile; or any other method designated in s. 1002.41.

c.~~3.~~ The home education student must meet the same residency requirements as other students in the school at which he or she participates.

d.~~4.~~ The home education student must meet the same

standards of acceptance, behavior, and performance as required of other students in extracurricular activities.

e.~~5.~~ The student must register with the school his or her intent to participate in interscholastic extracurricular activities as a representative of the school before participation. A home education student must be able to participate in curricular activities if that is a requirement for an extracurricular activity.

f.~~6.~~ A student who transfers from a home education program to a public school before or during the first grading period of the school year is academically eligible to participate in interscholastic extracurricular activities during the first grading period provided the student has a successful evaluation from the previous school year, pursuant to sub-subparagraph b. ~~subparagraph 2.~~

g.~~7.~~ Any public school or private school student who has been unable to maintain academic eligibility for participation in interscholastic extracurricular activities is ineligible to participate in such activities as a home education student until the student has successfully completed one grading period in home education pursuant to sub-subparagraph b. ~~subparagraph 2.~~ to become eligible to participate as a home education student.

2. An individual home education student is eligible to participate on an interscholastic athletic team at any public school in the school district in which the student resides, provided the student meets the conditions specified in sub-subparagraphs a. through g.

(8)(a) The Florida High School Athletic Association (FHSAA) shall, in cooperation with each district school board and its

member private schools, facilitate a program in which a middle school or high school student who attends a private school is eligible to participate in an interscholastic or intrascholastic sport at a member public high school, a member public middle school, a member 6-12 public school, or a member private school, as appropriate for the private school student's grade level, if:

1. The private school in which the student is enrolled is not a member of the FHSAA or the private school in which the student is enrolled is a member of the FHSAA and does not offer the sport in which the student wishes to participate.

2. The private school student meets the guidelines for the conduct of the program established by the FHSAA's board of directors and the district school board or member private school. At a minimum, such guidelines must provide a deadline for each sport by which the private school student's parents must register with the member school in writing their intent for their child to participate at that school in the sport.

(e) Any ~~non-FHSAA member~~ private school that has a student who wishes to participate in this program must make all student records, including, but not limited to, academic, financial, disciplinary, and attendance records, available upon request of the FHSAA.

~~(g) Only students who are enrolled in non-FHSAA member private schools consisting of 200 students or fewer are eligible to participate in the program in any given academic year.~~

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

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/CS/SB 268
INTRODUCER:	Community Affairs Committee; Governmental Oversight and Accountability Committee; Senators Jones and Brodeur
SUBJECT:	Public Records/Congressional Members and Public Officers
DATE:	March 31, 2025 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	White	McVaney	GO	**Fav/CS**
2.	Hackett	Fleming	CA	**Fav/CS**
3.	White	Yeatman	RC	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 268 exempts from public records copying and inspection requirements certain identifying and location information of certain state and local officials, along with their spouses and children. The bill exempts from public disclosure the partial home addresses and telephone numbers of a current congressional member or public officer, his or her adult children, and his or her spouse; and the names, home addresses, telephone numbers, and dates of birth, of a public officer's minor children, if any, as well as the names and locations of the school or day care facility said children attend.

This exemption is subject to the Open Government Sunset Review Act and will stand repealed on October 2, 2030, unless saved by the Legislature from repeal.

The bill additionally addresses the manner in which a qualifying individual submits a request for the maintenance of the public records exemption—requiring a statement of the office held and the duration of the term.

The bill contains a statement of public necessity as required by the State Constitution. The bill creates a new public records exemption and, therefore, requires a two-thirds vote of the members present and voting for final passage.

This bill is not expected to impact state and local government revenues and expenditures.

This bill takes effect July 1, 2025.

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, s. 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, ch. 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:

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

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

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[1] FLA. CONST. art. I, s. 24(a).
[2] *Id*. *See also*, *Sarasota Citizens for Responsible Gov't v. City of Sarasota*, 48 So. 3d 755, 762-763 (Fla. 2010).
[3] *See* Rule 1.48, *Rules and Manual of the Florida Senate*, (2022-2024) and Rule 14.1, *Rules of the Florida House of Representatives*, Edition 2, (2022-2024).
[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."
[6] *Shevin v. Byron, Harless, Schaffer, Reid and Assoc., Inc*., 379 So. 2d 633, 640 (Fla. 1980).

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]

Public Records Exemptions for Specified Personnel and their Families (s. 119.071(4), F.S.)

Section 119.071(4), F.S., exempts from public record disclosure the personal information of specific government employees when held by government agencies. In paragraph (d), "home addresses" is defined as the dwelling location at which an individual resides and includes the physical address, mailing address, street address, parcel identification number, plot identification number, legal property description, neighborhood name and lot number, GPS coordinates, and any other descriptive property information that may reveal the home address. Additionally, "telephone numbers" is defined to include home telephone numbers, personal cellular telephone

[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).

numbers, personal pager telephone numbers, and telephone numbers associated with personal communications devices.

Section 119.071(4)(d)2., F.S., generally exempts from public disclosure the home addresses, dates of birth, photographs, and telephone numbers of specified public employees and their spouses and children. Additionally exempted, typically, are the spouse's place of work as well as the name and location of any schools or day care facilities of the public employee's children, if any. These public employees include, but are not limited to, sworn law enforcement personnel and active or former civilian personnel employed by a law enforcement agency;[16] current or former justices of the Supreme Court, district court of appeal judges, circuit court judges, and county court judges;[17] current or former state attorneys;[18] current or former public defenders;[19] county tax collectors;[20] and clerks of a circuit court.[21]

Records that include exempt information about the above-specified personnel and their spouses and children (minor or adult) may be held by, among others, their employing agency, clerks of court and comptrollers, county tax collectors and property appraisers, school districts, and law enforcement agencies. County property appraisers[22] and county tax collectors[23] holding exempted information need only remove the name of an individual with exempt status and the instrument number or Official Records book and page number identifying the property with the exemption status from all publicly available records. County property appraisers and county tax collectors may not remove the street address, legal description, or other information identifying real property so long as the name or personal information otherwise exempt is not associated with the property or otherwise displayed in the public records.[24]

The personnel, their spouses or children, or their employing agency claiming an exemption under s. 119.071(4)(d)2., F.S., must affirmatively assert the right to the exemption by submitting a written and notarized request to each non-employer agency that holds the employee's or their spouse or child's information. The individual or entity asserting the exemption must provide, under oath, the statutory basis for the individual's exemption and confirm the individual's status as a party eligible for exempt status.[25]

These exemptions under s. 119.071(4)(d)2., F.S., have retroactive application, applying to information held by an agency before, on, or after the effective date of the exemption.[26] Home

[16] Section 119.071(4)(d)2.a., F.S. This would presumably include elected law enforcement officers such as sheriffs.
[17] Section 119.071(4)(d)2.e., F.S.
[18] Section 119.071(4)(d)2.f., F.S.
[19] Section 119.071(4)(d)2.l., F.S.
[20] Section 119.071(4)(d)2.n., F.S.
[21] Section 119.071(4)(d)2.y., F.S. Circuit court clerks' exemption from public records under this statute is set to repeal on October 2, 2029, unless saved by the Legislature.
[22] *See* s. 192.001(3), F.S.
[23] *See* s. 192.001(4), F.S.
[24] Section 119.071(4)(d)4., F.S.
[25] Section 119.071(4)(d)3., F.S.
[26] Section 119.071(4)(d)6., F.S.

addresses, however, are no longer exempt in the Official Records if the protected party no longer resides at the dwelling[27] or upon his or her death.[28]

Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act[29] (the Act), prescribe a legislative review process for newly created or substantially amended[30] public records or open meetings exemptions, with specified exceptions.[31] The Act requires the repeal of such exemption on October 2 of the fifth year after its creation or substantial amendment, unless the Legislature reenacts the exemption.[32]

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

- 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;[34]
- 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;[35] or
- It protects information of a confidential nature concerning entities, such as trade or business secrets.[36]

The Act also requires specified questions to be considered during the review process.[37] In examining an exemption, the Act directs the Legislature to question the purpose and necessity of reenacting the exemption.

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[27] The protected individual must submit a notarized, written request to release the removed information. Section 119.071(4)(d)8., F.S.

[28] A certified copy of a death certificate or court order must be presented with a notarized request to release the information to remove the exemption. Section 119.071(4)(d)9., F.S. Note, the Clerk is also called the "county recorder." *See* s. 28.222(2), F.S.

[29] Section 119.15, F.S.

[30] 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.

[31] 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.

[32] Section 119.15(3), F.S.

[33] Section 119.15(6)(b), F.S.

[34] Section 119.15(6)(b)1., F.S.

[35] Section 119.15(6)(b)2., F.S.

[36] Section 119.15(6)(b)3., F.S.

[37] 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?

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are again required.[38] If the exemption is continued without substantive changes or if 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.[39]

III. Effect of Proposed Changes:

Section 1 exempts from public records disclosure requirements certain personal identifying information of specified congressional members and public officers and their spouses and children. The following information will be exempt from public disclosure:

- The partial home and telephone numbers of a current congressional member or public officer, his or her adult children, and his or her spouse; and
- The names, home addresses, telephone numbers, and dates of birth of a congressional member or public officer's minor children, if any, and the names and locations of the schools or day care facilities the children attend.

The bill defines various terms for purposes of this exemption. The definition of "partial home addresses" is very similar to the current law definition of "home addresses" used in other public record disclosure exemptions, except that "partial home addresses," for purposes of this new exemption, does not include the city and zip code information of the dwelling's location.

"Congressional Member" includes a person elected to the United States House of Representatives or a person elected to or appointed to the United States Senate.

"Public officer" encompasses a person serving as the Governor, Lieutenant Governor, Chief Financial Officer, Attorney General, or Commissioner of Agriculture; as well as a state senator or representative, property appraiser, supervisor of elections, school superintendent, city or county commissioner, school board member, or mayor.

To assert the exemption, the congressional member, public officer, his or her spouse, child, or employing agency must submit a written and notarized request to each custodial agency that does not employ the public officer for the office forming the basis for the exemption. The individual or entity asserting the exemption must provide, under oath, the statutory basis for the individual's exemption and confirm the individual's status as a party eligible for exempt status.[40] Additionally, this bill requires an individual who requests an exemption pursuant to this provision to provide supporting documentation—specifically, the date of the public officer's appointment or election, the date of the next election of the public office, and, if applicable, the date at which the public officer's minor children reach the age of majority. The custodian must maintain the exemption until the qualifying condition for the exemption is no longer met.

- 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?

[38] *See generally* s. 119.15, F.S.
[39] Section 119.15(7), F.S.
[40] Section 119.071(4)(d)3., F.S.

Pursuant to s. 119.071(4)(d)6., F.S., the new exemption applies to information held by an agency before, on, or after July 1, 2025 (the effective date of the exemption).[41]

Consistent with s. 119.15, F.S., the new exemptions will expire on October 2, 2030, unless reviewed and saved from repeal by the Legislature.

Section 2 provides the constitutionally required public necessity statement. The public necessity statement identifies potential retribution against individuals (and their families) for making necessary and impactful policy decisions as justification for the bill. It also cites threats, harassment, and intimidation as potentially discouraging residents from seeking elective office.

Section 3 provides that the bill takes effect on July 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and 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 disclosure requirements. This bill enacts a new exemption for certain addresses, phone numbers, and other details of current public officers and their spouses and children and, thus, the bill requires a two-thirds vote to be enacted.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records disclosure requirements to state with specificity the public necessity justifying the exemption. Section 2 of the bill contains a statement of public necessity for the exemption which provides that public officers and their families may receive threats as a result of themselves or a family member carrying out their official duties. The threat of such harm may discourage residents from seeking elected office in order to protect themselves or their family.

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.

[41] *See* s. 119.071(4)(d)6., F.S.

The purpose of the proposed law is to protect elected officials and their spouses and children from threats, harassment, and intimidation that may result from their necessary and impactful policy decisions. This bill exempts specified public officers and their spouses and children from the public records disclosure requirements. The records exempted, to a large degree, mirror (and are even more limited than) existing exemptions for other sensitive state officers and employees in s. 119.071(4)(d), F.S. Thus, the exemption does not appear to be broader than necessary to accomplish the purpose of the law.

C. Trust Funds Restrictions:

None identified.

D. State Tax or Fee Increases:

None identified.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None identified.

B. Private Sector Impact:

The private sector will 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:

This bill may cause a minimal increase in workload on agencies holding records that contain personal identifying information of public officers as well as their spouses and children because staff responsible for complying with public record requests may require training related to the new public record exemption. Additionally, agencies may incur costs associated with redacting the exempt information prior to releasing a record. However, the workload will likely be absorbed within current resources.

VI. Technical Deficiencies:

None identified.

VII. Related Issues:

None identified.

VIII. Statutes Affected:

This bill substantially amends section 119.071 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/CS by Community Affairs on March 25, 2025:
The committee substitute includes congressional members - members of the United States House of Representatives and United States Senate - in the bill's public records exemptions.

CS by Government Oversight and Accountability on February 18, 2025:
- Narrows the definition of a "public officer" to the Governor, Lieutenant Governor, Chief Financial Officer, Attorney General, or Commissioner of Agriculture; as well as a state senator or representative, property appraiser, supervisor of elections, school superintendent, city or county commissioner, school board member, or mayor;
- Provides that a current public officer's telephone number is exempted from public records disclosure;
- Clarifies the exemptions for a public officer's children, adult or minor, are exclusive to those children of *current* public officers;
- Requires an individual who requests an exemption pursuant to this provision to provide supporting documentation; and
- Provides for the expiration of the public records exemption once the public officer vacates their position.

B. Amendments:

None.

By the Committees on Community Affairs; and Governmental Oversight and Accountability; and Senators Jones and Brodeur

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A bill to be entitled

An act relating to public records; amending s. 119.071, F.S.; defining terms; providing exemptions from public records requirements for the partial home addresses and telephone numbers of current congressional members and public officers and their spouses and adult children and the names, home addresses, telephone numbers, and dates of birth of, and the names and locations of schools and day care facilities attended by, the minor children of such congressional members and public officers; providing for future legislative review and repeal of the exemptions; providing methods for maintenance of an exemption; providing for retroactive application of the exemptions; providing a statement of public necessity; providing an effective date.

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

Section 1. Paragraph (d) of subsection (4) of section 119.071, Florida Statutes, is amended to read:

119.071 General exemptions from inspection or copying of public records.—

(4) AGENCY PERSONNEL INFORMATION.—

(d)1. For purposes of this paragraph, the term:

a. "Home addresses" means the dwelling location at which an individual resides and includes the physical address, mailing address, street address, parcel identification number, plot identification number, legal property description, neighborhood

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name and lot number, GPS coordinates, and any other descriptive property information that may reveal the home address.

b. "Judicial assistant" means a court employee assigned to the following class codes: 8140, 8150, 8310, and 8320.

c. "Telephone numbers" includes home telephone numbers, personal cellular telephone numbers, personal pager telephone numbers, and telephone numbers associated with personal communications devices.

2.a. The home addresses, telephone numbers, dates of birth, and photographs of active or former sworn law enforcement personnel or of active or former civilian personnel employed by a law enforcement agency, including correctional and correctional probation officers, personnel of the Department of Children and Families whose duties include the investigation of abuse, neglect, exploitation, fraud, theft, or other criminal activities, personnel of the Department of Health whose duties are to support the investigation of child abuse or neglect, and personnel of the Department of Revenue or local governments whose responsibilities include revenue collection and enforcement or child support enforcement; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

b. The home addresses, telephone numbers, dates of birth, and photographs of current or former nonsworn investigative personnel of the Department of Financial Services whose duties

include the investigation of fraud, theft, workers' compensation coverage requirements and compliance, other related criminal activities, or state regulatory requirement violations; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

c. The home addresses, telephone numbers, dates of birth, and photographs of current or former nonsworn investigative personnel of the Office of Financial Regulation's Bureau of Financial Investigations whose duties include the investigation of fraud, theft, other related criminal activities, or state regulatory requirement violations; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

d. The home addresses, telephone numbers, dates of birth, and photographs of current or former firefighters certified in compliance with s. 633.408; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such firefighters; and the names and locations of schools and day care facilities attended by the children of such firefighters are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

e. The home addresses, dates of birth, and telephone

numbers of current or former justices of the Supreme Court, district court of appeal judges, circuit court judges, and county court judges and current judicial assistants; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current or former justices and judges and current judicial assistants; and the names and locations of schools and day care facilities attended by the children of current or former justices and judges and current judicial assistants are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2028, unless reviewed and saved from repeal through reenactment by the Legislature.

f. The home addresses, telephone numbers, dates of birth, and photographs of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; and the names and locations of schools and day care facilities attended by the children of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

g. The home addresses, dates of birth, and telephone numbers of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division

of Administrative Hearings, and child support enforcement hearing officers; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers; and the names and locations of schools and day care facilities attended by the children of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

h. The home addresses, telephone numbers, dates of birth, and photographs of current or former human resource, labor relations, or employee relations directors, assistant directors, managers, or assistant managers of any local government agency or water management district whose duties include hiring and firing employees, labor contract negotiation, administration, or other personnel-related duties; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

i. The home addresses, telephone numbers, dates of birth, and photographs of current or former code enforcement officers; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such

personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

j. The home addresses, telephone numbers, places of employment, dates of birth, and photographs of current or former guardians ad litem, as defined in s. 39.01; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such persons; and the names and locations of schools and day care facilities attended by the children of such persons are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

k. The home addresses, telephone numbers, dates of birth, and photographs of current or former juvenile probation officers, juvenile probation supervisors, detention superintendents, assistant detention superintendents, juvenile justice detention officers I and II, juvenile justice detention officer supervisors, juvenile justice residential officers, juvenile justice residential officer supervisors I and II, juvenile justice counselors, juvenile justice counselor supervisors, human services counselor administrators, senior human services counselor administrators, rehabilitation therapists, and social services counselors of the Department of Juvenile Justice; the names, home addresses, telephone numbers, dates of birth, and places of employment of spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

l. The home addresses, telephone numbers, dates of birth, and photographs of current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel; and the names and locations of schools and day care facilities attended by the children of current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

m. The home addresses, telephone numbers, dates of birth, and photographs of current or former investigators or inspectors of the Department of Business and Professional Regulation; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such current or former investigators and inspectors; and the names and locations of schools and day care facilities attended by the children of such current or former investigators and inspectors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

n. The home addresses, telephone numbers, and dates of birth of county tax collectors; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such tax collectors; and the names and locations of schools and day care facilities attended by the

children of such tax collectors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

o. The home addresses, telephone numbers, dates of birth, and photographs of current or former personnel of the Department of Health whose duties include, or result in, the determination or adjudication of eligibility for social security disability benefits, the investigation or prosecution of complaints filed against health care practitioners, or the inspection of health care practitioners or health care facilities licensed by the Department of Health; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

p. The home addresses, telephone numbers, dates of birth, and photographs of current or former impaired practitioner consultants who are retained by an agency or current or former employees of an impaired practitioner consultant whose duties result in a determination of a person’s skill and safety to practice a licensed profession; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such consultants or their employees; and the names and locations of schools and day care facilities attended by the children of such consultants or employees are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

q. The home addresses, telephone numbers, dates of birth, and photographs of current or former emergency medical

technicians or paramedics certified under chapter 401; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such emergency medical technicians or paramedics; and the names and locations of schools and day care facilities attended by the children of such emergency medical technicians or paramedics are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

r. The home addresses, telephone numbers, dates of birth, and photographs of current or former personnel employed in an agency's office of inspector general or internal audit department whose duties include auditing or investigating waste, fraud, abuse, theft, exploitation, or other activities that could lead to criminal prosecution or administrative discipline; the names, home addresses, telephone numbers, dates of birth, and places of employment of spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

s. The home addresses, telephone numbers, dates of birth, and photographs of current or former directors, managers, supervisors, nurses, and clinical employees of an addiction treatment facility; the home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this

sub-subparagraph, the term "addiction treatment facility" means a county government, or agency thereof, that is licensed pursuant to s. 397.401 and provides substance abuse prevention, intervention, or clinical treatment, including any licensed service component described in s. 397.311(27).

t. The home addresses, telephone numbers, dates of birth, and photographs of current or former directors, managers, supervisors, and clinical employees of a child advocacy center that meets the standards of s. 39.3035(2) and fulfills the screening requirement of s. 39.3035(3), and the members of a Child Protection Team as described in s. 39.303 whose duties include supporting the investigation of child abuse or sexual abuse, child abandonment, child neglect, and child exploitation or to provide services as part of a multidisciplinary case review team; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel and members; and the names and locations of schools and day care facilities attended by the children of such personnel and members are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

u. The home addresses, telephone numbers, places of employment, dates of birth, and photographs of current or former staff and domestic violence advocates, as defined in s. 90.5036(1)(b), of domestic violence centers certified by the Department of Children and Families under chapter 39; the names, home addresses, telephone numbers, places of employment, dates of birth, and photographs of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt

from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

v. The home addresses, telephone numbers, dates of birth, and photographs of current or former inspectors or investigators of the Department of Agriculture and Consumer Services; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current or former inspectors or investigators; and the names and locations of schools and day care facilities attended by the children of current or former inspectors or investigators are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2028, unless reviewed and saved from repeal through reenactment by the Legislature.

w. The home addresses, telephone numbers, dates of birth, and photographs of current county attorneys, assistant county attorneys, deputy county attorneys, city attorneys, assistant city attorneys, and deputy city attorneys; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of current county attorneys, assistant county attorneys, deputy county attorneys, city attorneys, assistant city attorneys, and deputy city attorneys; and the names and locations of schools and day care facilities attended by the children of current county attorneys, assistant county attorneys, deputy county attorneys, city attorneys, assistant city attorneys, and deputy city attorneys are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption does not apply to a

county attorney, assistant county attorney, deputy county attorney, city attorney, assistant city attorney, or deputy city attorney who qualifies as a candidate for election to public office. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2029, unless reviewed and saved from repeal through reenactment by the Legislature.

x. The home addresses, telephone numbers, dates of birth, and photographs of current or former commissioners of the Florida Gaming Control Commission; the names, home addresses, telephone numbers, dates of birth, photographs, and places of employment of the spouses and children of such current or former commissioners; and the names and locations of schools and day care facilities attended by the children of such current or former commissioners are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2029, unless reviewed and saved from repeal through reenactment by the Legislature.

y. The home addresses, telephone numbers, dates of birth, and photographs of current clerks of the circuit court, deputy clerks of the circuit court, and clerk of the circuit court personnel; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current clerks of the circuit court, deputy clerks of the circuit court, and clerk of the circuit court personnel; and the names and locations of schools and day care facilities attended by the children of current clerks of the circuit court, deputy

clerks of the circuit court, and clerk of the circuit court personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2029, unless reviewed and saved from repeal through reenactment by the Legislature.

z.(I) As used in this sub-subparagraph, the term:

(A) "Congressional member" means a person who is elected to serve as a member of the United States House of Representatives or is elected or appointed to serve as a member of the United States Senate.

(B) "Partial home address" means the dwelling location at which an individual resides and includes the physical address, mailing address, street address, parcel identification number, plot identification number, legal property description, neighborhood name and lot number, GPS coordinates, and any other descriptive property information that may reveal the partial home address, except for the city and zip code.

(C) "Public officer" means a person who holds one of the following offices: Governor, Lieutenant Governor, Chief Financial Officer, Attorney General, Agriculture Commissioner, state representative, state senator, property appraiser, supervisor of elections, school superintendent, school board member, mayor, city commissioner, or county commissioner.

(II) The following information is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

(A) The partial home addresses of a current congressional member or public officer and his or her spouse or adult child.

(B) The telephone numbers of a current congressional member

or public officer and his or her spouse or adult child.

(C) The name, home addresses, telephone numbers, and date of birth of a minor child of a current congressional member or public officer and the name and location of the school or day care facility attended by the minor child.

(III) This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2030, unless reviewed and saved from repeal through reenactment by the Legislature.

3.a. An agency that is the custodian of the information specified in subparagraph 2. and that is not the employer of the officer, employee, justice, judge, or other person specified in subparagraph 2. must maintain the exempt status of that information only if the officer, employee, justice, judge, other person, or employing agency of the designated employee submits a written and notarized request for maintenance of the exemption to the custodial agency. The request must state under oath the statutory basis for the individual's exemption request and confirm the individual's status as a party eligible for exempt status.

b. An agency that is the custodian of information specified in sub-subparagraph 2.z. and that is not the employer of the congressional member, public officer, or other person specified in sub-subparagraph 2.z. must maintain the exempt status of that information only if an individual requests the maintenance of an exemption pursuant to sub-subparagraph 2.z. on the basis of eligibility as a current congressional member or public officer and his or her spouse or child submits, as part of the written and notarized request required by sub-subparagraph a., the date

of the congressional member's or public officer's election or appointment to public office, the date on which that office is next subject to election, and, if applicable, the date on which the current congressional member's or public officer's minor child reaches the age of majority. The custodian must maintain an exemption granted pursuant to sub-subparagraph 2.z. until the qualifying conditions for the exemption no longer apply to the person subject to the exemption.

4.a. A county property appraiser, as defined in s. 192.001(3), or a county tax collector, as defined in s. 192.001(4), who receives a written and notarized request for maintenance of the exemption pursuant to subparagraph 3. must comply by removing the name of the individual with exempt status and the instrument number or Official Records book and page number identifying the property with the exempt status from all publicly available records maintained by the property appraiser or tax collector. For written requests received on or before July 1, 2021, a county property appraiser or county tax collector must comply with this sub-subparagraph by October 1, 2021. A county property appraiser or county tax collector may not remove the street address, legal description, or other information identifying real property within the agency's records so long as a name or personal information otherwise exempt from inspection and copying pursuant to this section is not associated with the property or otherwise displayed in the public records of the agency.

b. Any information restricted from public display, inspection, or copying under sub-subparagraph a. must be provided to the individual whose information was removed.

5. An officer, an employee, a justice, a judge, or other person specified in subparagraph 2. may submit a written request for the release of his or her exempt information to the custodial agency. The written request must be notarized and must specify the information to be released and the party authorized to receive the information. Upon receipt of the written request, the custodial agency must release the specified information to the party authorized to receive such information.

6. The exemptions in this paragraph apply to information held by an agency before, on, or after the effective date of the exemption.

7. Information made exempt under this paragraph may be disclosed pursuant to s. 28.2221 to a title insurer authorized pursuant to s. 624.401 and its affiliates as defined in s. 624.10; a title insurance agent or title insurance agency as defined in s. 626.841(1) or (2), respectively; or an attorney duly admitted to practice law in this state and in good standing with The Florida Bar.

8. The exempt status of a home address contained in the Official Records is maintained only during the period when a protected party resides at the dwelling location. Upon conveyance of real property after October 1, 2021, and when such real property no longer constitutes a protected party's home address as defined in sub-subparagraph 1.a., the protected party must submit a written request to release the removed information to the county recorder. The written request to release the removed information must be notarized, must confirm that a protected party's request for release is pursuant to a conveyance of his or her dwelling location, and must specify the

Official Records book and page, instrument number, or clerk's file number for each document containing the information to be released.

9. Upon the death of a protected party as verified by a certified copy of a death certificate or court order, any party can request the county recorder to release a protected decedent's removed information unless there is a related request on file with the county recorder for continued removal of the decedent's information or unless such removal is otherwise prohibited by statute or by court order. The written request to release the removed information upon the death of a protected party must attach the certified copy of a death certificate or court order and must be notarized, must confirm the request for release is due to the death of a protected party, and must specify the Official Records book and page number, instrument number, or clerk's file number for each document containing the information to be released. A fee may not be charged for the release of any document pursuant to such request.

Section 2. The Legislature finds that it is a public necessity that the partial home addresses and telephone numbers of current congressional members and public officers and their spouses and adult children; the names, home addresses, telephone numbers, and dates of birth of the minor children of such congressional members and officers; and the names and locations of schools and day care facilities attended by the minor children of such congressional members and officers be made exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. Congressional members and public officers are often confronted with making difficult and

impactful policy decisions. As a result, congressional members and public officers and their families may receive threats, including, but not limited to, verbal threats, harassment, and intimidation, while carrying out their official duties. Vulnerability to such threats may discourage residents of this state from seeking elected office in order to protect themselves and their families. The Legislature further finds that the harm that may result from the release of such personal identifying and location information outweighs any public benefit that may be derived from the disclosure of the information.

Section 3. This act shall take effect July 1, 2025.

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/CS/SB 304
INTRODUCER:	Judiciary Committee; Children, Families, and Elder Affairs Committee; Senator Sharief and others
SUBJECT:	Specific Medical Diagnoses in Child Protective Investigations
DATE:	March 31, 2025 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Tuszynski	Tuszynski	CF	**Fav/CS**
2.	Collazo	Cibula	JU	**Fav/CS**
3.	Tuszynski	Yeatman	RC	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 304 requires the Department of Children and Families and child abuse investigators to consider and rule out certain diseases and medical conditions which can be mistaken as evidence of child abuse or neglect before involving law enforcement agencies or filing a petition to find the child dependent under state law.

The main provisions of the bill:

- Give the department additional time to forward allegations of criminal conduct to a law enforcement agency, if the parent has alleged the existence of certain pre-existing medical conditions identified in the bill or has requested an examination.
- Require child protective investigators, at the commencement of an investigation, to remind parents being investigated that they have a duty to report their child's pre-existing medical conditions and provide supporting records in a timely manner.
- Require child protection teams to consult with licensed physicians or APRNs having relevant experience when evaluating a child having certain pre-existing medical conditions.
- Allow a parent from whom a child has been removed to request additional medical examinations in certain cases, provided the parent custodian pays for them.

The bill takes effect July 1, 2025.

II. Present Situation:

Florida's Child Welfare System

Chapter 39, F.S., creates Florida's dependency system, which is charged with protecting child welfare. This system identifies children and families in need of services through reports to a central child abuse hotline and child protective investigations.[1] The Department of Children and Families and community-based care lead agencies[2] then work with those families to address the problems endangering children. If identified problems cannot be addressed, the system finds safe out-of-home placements for these children.

The department's practice model for child and family well-being is a safety-focused, trauma-informed, and family-centered approach. It is implemented to ensure:

- *Permanency.* Florida's children should enjoy long-term, secure relationships within strong families and communities.
- *Child Well-Being.* Florida's children should be physically and emotionally healthy and socially competent.
- *Safety.* Florida's children should live free from maltreatment.
- *Family Well-Being.* Florida's families should nurture, protect, and meet the needs of their children, and should be well integrated into their communities.[3]

The department contracts for case management, out-of-home services, and related services with community-based care lead agencies.[4] The outsourced provision of child welfare services is intended to increase local community ownership of the services provided and their design. Lead agencies contract with many subcontractors for case management and direct-care services to children and their families.[5] There are 16 lead agencies statewide that serve the state's 20 judicial circuits.[6] However, the department remains responsible for the operation of the central abuse hotline and investigations of abuse, abandonment, and neglect.[7] The department is also responsible for all program oversight and the overall performance of the child welfare system.[8]

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[1] *See generally* s. 39.101, F.S. (establishing the central abuse hotline and timeframes for initiating investigations).
[2] *See* s. 409.986(1)(a), F.S. (finding that it is the intent of the Legislature that the Department of Children and Families "provide child protection and child welfare services to children through contracting with community-based care lead agencies"). A "community-based care lead agency" or "lead agency" means a single entity with which the DCF has a contract for the provision of care for children in the child protection and child welfare system, in a community that is no smaller than a county and no larger than two contiguous judicial circuits. Section 409.986(3)(d), F.S. The secretary of the DCF may authorize more than one eligible lead agency within a single county if doing so will result in more effective delivery of services to children. *Id.*
[3] *See generally* Department of Children and Families (DCF), *Florida's Child Welfare Practice Model,* available at: https://www.myflfamilies.com/sites/default/files/2022-12/FLCSPracticeModel_0.pdf (last visited Mar. 17, 2025).
[4] Section 409.986(3)(e), F.S.; *see generally* Part V, Chapter 409, F.S. (regulating community-based child welfare).
[5] DCF, *About Community-Based Care (CBC),* https://www.myflfamilies.com/services/child-and-family-well-being/community-based-care/about (last visited Mar. 17, 2025).
[6] DCF, *Lead Agency Information,* https://www.myflfamilies.com/services/child-family/child-and-family-well-being/community-based-care/lead-agency-information (last visited Mar. 17, 2025).
[7] Section 39.101, F.S.
[8] Section 409.986(1)(b), F.S.

Dependency System Process

If a child is in danger of, or has suffered from, abuse, neglect, or abandonment, the dependency system is set up to protect the child's welfare. The dependency process includes, among other things:

- A report to the central abuse hotline.
- A child protective investigation to determine the safety of the child.
- A court finding that the child is dependent.
- Case planning to address the problems that resulted in the child's dependency.
- Reunification with the child's parent or another option, such as adoption, to establish permanency.[9]

Mandatory Reporting

Florida law requires *any* person who knows, or has reasonable cause to suspect, that a child is being abused, abandoned, or neglected to report the knowledge or suspicion to the department's central abuse hotline.[10] A person from the general public, while a mandatory reporter, may make a report anonymously.[11] However, persons having certain occupations such as physician, nurse, teacher, law enforcement officer, or judge must provide their name to the central abuse hotline when making the report.[12]

Central Abuse Hotline and Investigations

The central abuse hotline is the first step in the safety assessment and investigation process. Accordingly, by statute it must be available to receive all reports of known or suspected child abuse, abandonment, or neglect 24 hours a day, 7 days a week, via telephone, writing, or electronic reporting.[13]

When allegations have been made against a parent, legal custodian, caregiver,[14] or other person responsible for the child's welfare,[15] the hotline counselor must assess whether the report meets the statutory definition of abuse, abandonment, or neglect.[16] If it does, the report is accepted for a protective investigation.[17] At the same time, the department makes a determination regarding when to initiate a protective investigation:

- Immediately if:

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[9] Office of the State Courts Administrator, The Office of Family Courts, *A Caregiver's Guide to Dependency Court,* 2 (Jan. 2024), available at https://www.flcourts.gov/content/download/787836/file/A%20Caregiver's%20Guide%20to%20Dependency%20Court%20(Oct%202020).pdf; *see also* ch. 39, F.S.

[10] Section 39. 201(1)(a), F.S.

[11] Section 39.201(1)(b)1., F.S.

[12] Section 39.201(1)(b)2., F.S.

[13] Section 39.101(1)(a), F.S.

[14] "Caregiver" means the parent, legal custodian, permanent guardian, adult household member, or other person responsible for a child's welfare. Section 39.01(10), F.S.

[15] "Other person responsible for a child's welfare" means the child's legal guardian or foster parent; an employee of any school, public or private child day care center, residential home, institution, facility, or agency; a law enforcement officer employed in any facility, service, or program for children that is operated or contracted by the Department of Juvenile Justice, with exceptions of specified personnel working in their official capacity. Section 39.01(57), F.S. Reports of known or suspected institutional child abuse or neglect must be made in the same manner as other reports. Section 39.201(3)(d), F.S.

[16] Section 39.201(4)(a), F.S.

[17] *Id.*

  - It appears the child's immediate safety or well-being is endangered;
  - The family may flee or the child will be unavailable for purposes of conducting a child protective investigation; or
  - The facts otherwise warrant; or
- Within 24 hours in all other child abuse, abandonment, or neglect cases.[18]

For reports requiring an immediate onsite protective investigation, the central abuse hotline must immediately notify the department's designated district staff responsible for protective investigations to ensure that an investigation is promptly initiated. For reports not requiring an immediate onsite protective investigation, the central abuse hotline must only notify the department's designated district staff in sufficient time to allow for an investigation.[19]

Once assigned, a child protective investigator must assess the safety and perceived needs of the child and family; whether in-home services are needed to stabilize the family; and whether the safety of the child necessitates removal and the provision of out-of-home services.[20]

Medical Examination

A child protective investigator may refer a child to a licensed physician or a hospital's emergency department without the consent of the child's parents or legal custodian if the child has bruises indicating a need for medical examination, or if the child verbally complains or appears to be in distress due to injuries caused by suspected child abuse, abandonment, or neglect. The examination may be performed by any licensed physician or an advanced practice registered nurse.[21]

Consent for non-emergency medical treatment must be obtained from a parent or legal custodian of the child, if available; otherwise, the department must obtain a court order for medical treatment.[22]

Child Protection Teams

A child protection team is a medically directed, multidisciplinary team that supplements the child protective investigation efforts of the department and local sheriffs' offices in cases of child abuse and neglect.[23] Child protection teams are independent community-based programs contracted by the Department of Health Children's Medical Services program which provide expertise in evaluating alleged child abuse and neglect, assessing risk and protective factors, and providing recommendations for interventions. The objective is to protect children and enhance caregivers' capacity to provide safer environments whenever possible.[24]

[18] Section 39.101(2), F.S.
[19] Section 39.301(1)(a), F.S.
[20] *See generally* s. 39.301, F.S. and Part IV, Chapter 39, F.S. (regulating taking children into custody and shelter hearings).
[21] Section 39.304(1)(b), F.S.
[22] Section 39.304(2)(a), F.S.
[23] Florida Department of Health, *Child Protection*, available at https://www.floridahealth.gov/%5C/programs-and-services/childrens-health/cms-specialty-programs/Child-Protection/index.html (last visited Mar. 17, 2025).
[24] UF Health, Child Protection Team, https://cpt.pediatrics.med.ufl.edu/about-us/ (last visited Mar. 17, 2025).

Certain reports of child abuse, abandonment, and neglect to the hotline must be referred to a child protection team, including:

- Injuries to the head, bruises to the neck or head, burns, or fractures in a child of any age.
- Bruises anywhere on a child 5 years of age or younger.
- Any report alleging sexual abuse of a child.
- Any sexually transmitted disease in a prepubescent child.
- Reported malnutrition or failure of a child to thrive.
- Reported medical neglect of a child.
- A sibling or other child remaining in a home where one or more children have been pronounced dead on arrival at a health care facility or have been injured and later died because of suspected abuse, abandonment, or neglect.
- Symptoms of serious emotional problems in a child if emotional or other abuse, abandonment, or neglect is suspected.
- A child who does not live in this state and is currently being evaluated in a medical facility in this state.[25]

When the child protection team accepts a referral from the department or a law enforcement agency, it may provide one or more of the following services:

- Medical diagnosis and evaluation.
- Child forensic interviews.
- Child and family assessments.
- Psychological and psychiatric evaluations.
- Expert court testimony.[26]

III. Effect of Proposed Changes:

The bill requires the Department of Children and Families and child abuse investigators to consider and rule out certain diseases and medical conditions which can be mistaken as evidence of child abuse or neglect before involving law enforcement agencies or filing a petition to find the child dependent under state law.

Section 1 of the bill amends s. 39.301(2)(a), F.S., regarding the initiation of protective investigations, to give the department additional time to forward an allegation of criminal conduct to a law enforcement agency.

Under the bill, the department does not need to immediately forward an allegation of criminal conduct if the parent or legal custodian from whom a child has been removed:

[25] Section 39.303(4), F.S.
[26] *See generally* s. 39.303(3), F.S.

- Has alleged a pre-existing diagnosis of Rickets,[27] Ehlers-Danlos syndrome,[28] Osteogenesis Imperfecta,[29] Vitamin D deficiency,[30] or any other medical condition known to appear to be caused by, or known to be misdiagnosed as, abuse.
- Has requested that the child have an examination for a second opinion or a differential diagnosis under s. 39.304(1)(c), F.S., as provided in Section 3 of the bill and described in more detail below.

Allegations of criminal conduct that have not been immediately forwarded to a law enforcement agency for the above reasons must be immediately forwarded upon completion of the investigation if criminal conduct is still alleged.

The bill also amends s. 39.301(5)(a), F.S., regarding the duties of child protective investigators, to require a child protective investigator who has commenced an investigation to inform the parent or legal custodian being investigated of his or her duty to:

- Report a preexisting diagnosis for the child of Rickets, Ehlers-Danlos syndrome, Osteogenesis Imperfecta, or any other medical condition known to appear to be caused by, or known to be misdiagnosed as, abuse.
- Provide any medical records that support that diagnosis to the department in a timely manner.

Section 2 of the bill amends s. 39.303, F.S., regarding child protection teams and sexual abuse treatment programs, to expand existing consultation requirements.

Under current law, child protection teams evaluating a report of medical neglect and assessing the health care needs of a medically complex child must consult with a physician who has experience in treating children with the same condition.

Under the bill, child protection teams must consult with a licensed physician[31] or a licensed advanced practice registered nurse (APRN)[32] having experience in, and routinely providing medical care to, pediatric patients when evaluating a report of:

- Medical neglect and assessing the needs of a medically complex child; or
- A child having a reported preexisting diagnosis of Rickets, Ehlers-Danlos syndrome, Osteogenesis Imperfecta, Vitamin D deficiency, or any other medical condition known to appear to be caused by, or known to be misdiagnosed as, abuse.

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[27] A child born with this disorder may have weak or softened bones due to a lack of sufficient calcium or phosphorus. John Hopkins Medicine, *Metabolic Bone Disease: Osteomalacia*, https://www.hopkinsmedicine.org/health/conditions-and-diseases/metabolic-bone-disease (last visited Mar. 17, 2025).

[28] A child born with this disorder may have overly flexible joints and stretchy, fragile skin. Mayo Clinic, *Ehlers-Danlos syndrome*, https://www.mayoclinic.org/diseases-conditions/ehlers-danlos-syndrome/symptoms-causes/syc-20362125 (last visited Mar. 17, 2025).

[29] A child born with this disorder may have soft bones that break easily, bones that are not formed normally, and other problems. Johns Hopkins Medicine, *Health: Osteogenesis Imperfecta*, https://www.hopkinsmedicine.org/health/conditions-and-diseases/osteogenesis-imperfecta (last visited Mar. 17, 2025).

[30] Having inadequate amounts of Vitamin D in your body may cause health problems like brittle bones and muscle weakness. Yale Medicine, V*itamin D Deficiency*, https://www.yalemedicine.org/conditions/vitamin-d-deficiency (last visited Mar. 17, 2025).

[31] *See* chs. 458 and 459, F.S. (regulating medical practice and osteopathic medicine).

[32] *See* ch. 464, F.S. (regulating nursing).

Section 3 of the bill amends s. 39.304(1), F.S., regarding photographs, medical examinations, X rays, and medical treatment of abused, abandoned, or neglected children, to allow a parent or legal custodian from whom a child was removed to request additional medical examinations in certain cases.

Under the bill, if an examination is performed on a child under existing law, the parent or legal custodian from whom the child was removed may:

- Request an examination by the child protection team as soon as practicable, if the team did not perform the initial examination that led to the allegations of abuse, abandonment, or neglect.
- Request that the child be examined by a licensed physician or a licensed APRN of the parent or legal custodian's choosing who routinely provides medical care to pediatric patients, if the initial examination was performed by the child protection team and the parent or legal custodian would like a second opinion on diagnosis or treatment; or
- Request that the child be examined by a licensed physician or a licensed APRN who routinely provides diagnosis of, and medical care to, pediatric patients, to rule out a differential diagnosis of Rickets, Ehlers-Danlos syndrome, Osteogenesis Imperfecta, Vitamin D deficiency, or any other medical condition known to appear to be caused by, or known to be misdiagnosed as, abuse.

The bill also requires the requesting parent or legal custodian to pay for these medical examinations, or for them to be paid for as otherwise covered by insurance. The bill does not allow a request for a second opinion examination for a child alleged to have been sexually abused.

Section 4 of the bill provides an effective date of July 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department of Children and Families may incur additional costs to evaluate whether a child's injury or condition is the result of a disease or medical condition.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends the following sections of the Florida Statutes: 39.301, 39.303, and 39.304.

IX. Additional Information:

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

CS/CS by Judiciary on March 25, 2025:
The committee substitute eliminates the section of the bill requiring physicians, osteopathic physicians, medical examiners, chiropractic physicians, nurses, and certain hospital personnel to summarize the analysis they used to rule out differential diagnoses of certain diseases and medical conditions which can be mistaken as evidence of child abuse or neglect.

CS by Children, Families, and Elder Affairs on March 12, 2025:
- Requires certain mandatory reporters of child abuse, abandonment, or neglect to include a summary of the analysis used to rule out a differential diagnosis of certain conditions.
- Stops the requirement of an immediate report of allegations to law enforcement in the instances related to these diagnoses and requires the report only after an investigation is complete and criminal conduct is still alleged.
- Creates a requirement for a parent to be informed of the duty to report any pre-existing medical condition at the initiation of an investigation and provide supporting records of that diagnosis in a timely manner.

- Requires the Child Protection Team to consult with an experienced physician or APRN when evaluating reports that contain pre-existing diagnoses of certain medical conditions.
- Allows a parent to request examinations in certain instances to get a second opinion on diagnosis or treatment or to rule out differential diagnosis of certain conditions.

B. Amendments:

None.

By the Committees on Judiciary; and Children, Families, and Elder Affairs; and Senators Sharief, Garcia, Rouson, Gaetz, and Collins

A bill to be entitled

An act relating to specific medical diagnoses in child protective investigations; amending s. 39.301, F.S.; providing an exception to the requirement that the Department of Children and Families immediately forward certain allegations to a law enforcement agency; requiring a child protective investigator to inform the subject of an investigation of a certain duty; conforming a cross-reference; amending s. 39.303, F.S.; requiring Child Protection Teams to consult with a licensed physician or advanced practice registered nurse when evaluating certain reports; conforming provisions to changes made by the act; amending s. 39.304, F.S.; authorizing, under a certain circumstance, a parent or legal custodian from whom a child was removed to request specified examinations of the child; requiring that certain examinations be paid for by the parent or legal custodian making the request or as otherwise covered by insurance or Medicaid; prohibiting the request of an examination for a specified purpose; providing an effective date.

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

Section 1. Paragraph (a) of subsection (2), paragraph (a) of subsection (5), and paragraph (c) of subsection (14) of section 39.301, Florida Statutes, are amended to read:

39.301 Initiation of protective investigations.—

(2)(a) The department shall immediately forward allegations

of criminal conduct to the municipal or county law enforcement agency of the municipality or county in which the alleged conduct has occurred, unless the parent or legal custodian:

1. Has alleged that the child has a preexisting diagnosis specified in s. 39.303(4)(b); or

2. Is requesting that the child have an examination under s. 39.304(1)(c).

Allegations of criminal conduct that are not immediately forwarded to the law enforcement agency pursuant to subparagraph 1. or subparagraph 2. must be immediately forwarded to the law enforcement agency upon completion of the investigation under this part if criminal conduct is still alleged.

(5)(a) Upon commencing an investigation under this part, the child protective investigator shall inform any subject of the investigation of the following:

1. The names of the investigators and identifying credentials from the department.

2. The purpose of the investigation.

3. The right to obtain his or her own attorney and ways that the information provided by the subject may be used.

4. The possible outcomes and services of the department's response.

5. The right of the parent or legal custodian to be engaged to the fullest extent possible in determining the nature of the allegation and the nature of any identified problem and the remedy.

6. The duty of the parent or legal custodian to report any change in the residence or location of the child to the

investigator and that the duty to report continues until the investigation is closed.

7. The duty of the parent or legal custodian to report any preexisting diagnosis for the child which is specified in s. 39.303(4)(b) and provide any medical records that support that diagnosis in a timely manner.

(14)

(c) The department, in consultation with the judiciary, shall adopt by rule:

1. Criteria that are factors requiring that the department take the child into custody, petition the court as provided in this chapter, or, if the child is not taken into custody or a petition is not filed with the court, conduct an administrative review. Such factors must include, but are not limited to, noncompliance with a safety plan or the case plan developed by the department, and the family under this chapter, and prior abuse reports with findings that involve the child, the child's sibling, or the child's caregiver.

2. Requirements that if after an administrative review the department determines not to take the child into custody or petition the court, the department shall document the reason for its decision in writing and include it in the investigative file. For all cases that were accepted by the local law enforcement agency for criminal investigation pursuant to subsection (2), the department must include in the file written documentation that the administrative review included input from law enforcement. In addition, for all cases that must be referred to Child Protection Teams pursuant to s. 39.303(5) and (6) ~~s. 39.303(4) and (5)~~, the file must include written

documentation that the administrative review included the results of the team's evaluation.

Section 2. Present subsections (4) through (10) of section 39.303, Florida Statutes, are redesignated as subsections (5) through (11), respectively, a new subsection (4) is added to that section, and subsection (3) and present subsections (5) and (6) of that section are amended, to read:

39.303 Child Protection Teams and sexual abuse treatment programs; services; eligible cases.—

(3) The Department of Health shall use and convene the Child Protection Teams to supplement the assessment and protective supervision activities of the family safety and preservation program of the Department of Children and Families. This section does not remove or reduce the duty and responsibility of any person to report pursuant to this chapter all suspected or actual cases of child abuse, abandonment, or neglect or sexual abuse of a child. The role of the Child Protection Teams is to support activities of the program and to provide services deemed by the Child Protection Teams to be necessary and appropriate to abused, abandoned, and neglected children upon referral. The specialized diagnostic assessment, evaluation, coordination, consultation, and other supportive services that a Child Protection Team must be capable of providing include, but are not limited to, the following:

(a) Medical diagnosis and evaluation services, including provision or interpretation of X rays and laboratory tests, and related services, as needed, and documentation of related findings.

(b) Telephone consultation services in emergencies and in

other situations.

(c) Medical evaluation related to abuse, abandonment, or neglect, as defined by policy or rule of the Department of Health.

(d) Such psychological and psychiatric diagnosis and evaluation services for the child or the child's parent or parents, legal custodian or custodians, or other caregivers, or any other individual involved in a child abuse, abandonment, or neglect case, as the team may determine to be needed.

(e) Expert medical, psychological, and related professional testimony in court cases.

(f) Case staffings to develop treatment plans for children whose cases have been referred to the team. A Child Protection Team may provide consultation with respect to a child who is alleged or is shown to be abused, abandoned, or neglected, which consultation shall be provided at the request of a representative of the family safety and preservation program or at the request of any other professional involved with a child or the child's parent or parents, legal custodian or custodians, or other caregivers. In every such Child Protection Team case staffing, consultation, or staff activity involving a child, a family safety and preservation program representative shall attend and participate.

(g) Case service coordination and assistance, including the location of services available from other public and private agencies in the community.

(h) Such training services for program and other employees of the Department of Children and Families, employees of the Department of Health, and other medical professionals as is

deemed appropriate to enable them to develop and maintain their professional skills and abilities in handling child abuse, abandonment, and neglect cases. The training service must include training in the recognition of and appropriate responses to head trauma and brain injury in a child under 6 years of age as required by ss. 402.402(2) and 409.988.

(i) Educational and community awareness campaigns on child abuse, abandonment, and neglect in an effort to enable citizens more successfully to prevent, identify, and treat child abuse, abandonment, and neglect in the community.

(j) Child Protection Team assessments that include, as appropriate, medical evaluations, medical consultations, family psychosocial interviews, specialized clinical interviews, or forensic interviews.

~~A Child Protection Team that is evaluating a report of medical neglect and assessing the health care needs of a medically complex child shall consult with a physician who has experience in treating children with the same condition.~~

(4) A Child Protection Team shall consult with a physician licensed under chapter 458 or chapter 459 or an advanced practice registered nurse licensed under chapter 464 who has experience in and routinely provides medical care to pediatric patients when evaluating a report of:

(a) Medical neglect and assessing the needs of a medically complex child; or

(b) A child with a reported preexisting diagnosis of any of the following:

1. Rickets.

2. Ehlers-Danlos syndrome.

3. Osteogenesis imperfecta.

4. Vitamin D deficiency.

5. Any other medical condition known to appear to be caused by, or known to be misdiagnosed as, abuse.

(6) ~~(5)~~ All abuse and neglect cases transmitted for investigation to a circuit by the hotline must be simultaneously transmitted to the Child Protection Team for review. For the purpose of determining whether a face-to-face medical evaluation by a Child Protection Team is necessary, all cases transmitted to the Child Protection Team which meet the criteria in subsection (5) ~~(4)~~ must be timely reviewed by:

(a) A physician licensed under chapter 458 or chapter 459 who holds board certification in pediatrics and is a member of a Child Protection Team;

(b) A physician licensed under chapter 458 or chapter 459 who holds board certification in a specialty other than pediatrics, who may complete the review only when working under the direction of the Child Protection Team medical director or a physician licensed under chapter 458 or chapter 459 who holds board certification in pediatrics and is a member of a Child Protection Team;

(c) An advanced practice registered nurse licensed under chapter 464 who has a specialty in pediatrics or family medicine and is a member of a Child Protection Team;

(d) A physician assistant licensed under chapter 458 or chapter 459, who may complete the review only when working under the supervision of the Child Protection Team medical director or a physician licensed under chapter 458 or chapter 459 who holds

board certification in pediatrics and is a member of a Child Protection Team; or

(e) A registered nurse licensed under chapter 464, who may complete the review only when working under the direct supervision of the Child Protection Team medical director or a physician licensed under chapter 458 or chapter 459 who holds board certification in pediatrics and is a member of a Child Protection Team.

(7) ~~(6)~~ A face-to-face medical evaluation by a Child Protection Team is not necessary when:

(a) The child was examined for the alleged abuse or neglect by a physician who is not a member of the Child Protection Team, and a consultation between the Child Protection Team medical director or a Child Protection Team board-certified pediatrician, advanced practice registered nurse, physician assistant working under the supervision of a Child Protection Team medical director or a Child Protection Team board-certified pediatrician, or registered nurse working under the direct supervision of a Child Protection Team medical director or a Child Protection Team board-certified pediatrician, and the examining physician concludes that a further medical evaluation is unnecessary;

(b) The child protective investigator, with supervisory approval, has determined, after conducting a child safety assessment, that there are no indications of injuries as described in paragraphs (5)(a)-(h) ~~(4)(a)-(h)~~ as reported; or

(c) The Child Protection Team medical director or a Child Protection Team board-certified pediatrician, as authorized in subsection (6) ~~(5)~~, determines that a medical evaluation is not

required.

Notwithstanding paragraphs (a), (b), and (c), a Child Protection Team medical director or a Child Protection Team pediatrician, as authorized in subsection (6) ~~(5)~~, may determine that a face-to-face medical evaluation is necessary.

Section 3. Paragraph (c) is added to subsection (1) of section 39.304, Florida Statutes, to read:

39.304 Photographs, medical examinations, X rays, and medical treatment of abused, abandoned, or neglected child.—

(1)

(c) If an examination is performed on a child under paragraph (b), the parent or legal custodian from whom the child was removed pursuant to s. 39.401 may:

1. If the initial examination was not performed by the Child Protection Team, request that the child be examined by the Child Protection Team as soon as practicable;

2. If the initial examination was performed by the Child Protection Team, for the purpose of obtaining a second opinion on diagnosis or treatment, request that the child be examined by a physician licensed under chapter 458 or chapter 459 or an advanced practice registered nurse licensed under chapter 464 of his or her choosing who routinely provides medical care to pediatric patients; or

3. For the purpose of ruling out a differential diagnosis, request that the child be examined by a physician licensed under chapter 458 or chapter 459 or an advanced practice registered nurse licensed under chapter 464 who routinely provides diagnosis of and medical care to pediatric patients for the

conditions specified in s. 39.303(4)(b).

An examination requested under subparagraph 2. or subparagraph 3. must be paid for by the parent or legal custodian making such request or as otherwise covered by insurance or Medicaid. An examination may not be requested under this paragraph for the purpose of obtaining a second opinion as to whether a child has been sexually abused.

Section 4. This act shall take effect July 1, 2025.

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/CS/SB 312
INTRODUCER:	Governmental Oversight and Accountability Committee; Education Postsecondary Committee; Senators Gaetz and Harrell
SUBJECT:	Florida Institute for Human and Machine Cognition, Inc.
DATE:	March 31, 2025 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jahnke	Bouck	HE	**Fav/CS**
2.	McVaney	McVaney	GO	**Fav/CS**
3.	Jahnke	Yeatman	RC	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 312 modifies requirements related to the Florida Institute for Human and Machine Cognition, Inc. (IHMC) corporation. Specifically, the bill:

- Requires the board of directors of the IHMC to oversee the creation of not-for-profit subsidiaries rather than the Board of Governors.
- Removes the requirement that the Board of Governors approve the articles of incorporation for any authorized and approved subsidiary.
- Requires reporting by the IHMC, rather than the University of West Florida.
- Revises the composition of the board of directors by removing the chair of the Board of Trustees of the University of West Florida and adding a new public representative appointed by the Board of Trustees of the University of West Florida.
- Grants subsidiaries the authority to enter into affiliation agreements.

This bill does not have an impact on state or local government revenues or expenditures.

This bill takes effect July 1, 2025.

II. Present Situation:

The Florida Institute for Human and Machine Cognition

The Florida Institute for Human and Machine Cognition, Inc. (IHMC) is a not-for-profit research institute established at the University of West Florida (UWF) and is affiliated with several Florida universities.[1] The IHMC was founded to advance research in human and machine cognition, with a focus on artificial intelligence, robotics, human performance, and information technology. Faculty and staff collaborate extensively with universities, research institutions, and private-sector partners to conduct cutting-edge scientific research.[2]

The IHMC is authorized to create not-for-profit corporate subsidiaries to support its mission, provided they are approved by the Board of Governors.[3] The corporation and its subsidiaries must comply with Florida's public records and open meetings laws, ensuring transparency in their operations.[4] However, certain records and meetings of the IHMC and its subsidiaries are exempt from Florida's public records and open meetings laws to protect trade secrets, patentable material, proprietary research, confidential business transactions, donor identities, and information received from government entities under confidentiality agreements, though governmental entities may access this information when necessary for official duties.[5]

The IHMC and its subsidiaries are authorized to:[6]

- Receive, invest, and administer funds from public and private sources, including state and federal grants, private donations, and income derived from research activities.
- Secure patents, trademarks, and copyrights for its research products.
- Obtain comprehensive general liability protection, including professional liability protection, for the corporation and its subsidiaries.
- Enter into affiliation agreements with universities and research organizations.

The IHMC's board of directors manages its affairs and serves without compensation, with each director having one vote. The board of directors consists of:[7]

- The chair of the Board of Governors or the chair's designee.
- The chair of the board of trustees of UWF or the chair's designee.
- The President of UWF or the president's designee.
- Three state university representatives.
- Nine public representatives, who are neither state university employees nor state employees.

The Governor, the President of the Senate, and the Speaker of the House of Representatives each appoint one state university representative for an initial three-year term, while they, along with the UWF Board of Trustees chair, appoint nine public representatives for initial two-year terms.

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[1] Sections 1004.447, F.S. and 1004.4471, F.S.
[2] Florida Institute for Human and Machine Cognition, *The IHMC Story*, https://www.ihmc.us/aboutihmc/ (last visited Mar. 21, 2025).
[3] Section 1004.447(1)(b), F.S.
[4] Section 1004.447(2)(c), F.S.
[5] Section 1004.4472, F.S.
[6] Section 1004.447(2)(e)-(g), F.S.
[7] Section 1004.447(5)(a), F.S.

After the initial terms, directors are appointed under this process and are reappointed for three-year terms by a majority vote of the board.[8]

The Board of Trustees of UWF is responsible for certifying that IHMC operates in compliance with state regulations and must report annually to the Governor, Legislature, and Board of Governors.[9]

The Board of Governors

The State University System of Florida consists of 12 public universities,[10] each governed by an individual board of trustees. The Board of Governors (BOG) is responsible for overseeing, regulating, and managing the entire State University System,[11] ensuring compliance with local, state, and federal laws that govern its institution.[12]

If the BOG determines that an institution is not in compliance with applicable laws or regulations, it has the authority to take disciplinary actions, including:[13]

- Withholding state or other funding.
- Requiring periodic reports until compliance is achieved.
- Reporting noncompliance to the Legislature.

The BOG has established regulation[14] that outlines the structure, oversight, and reporting requirements for institutes and centers within Florida's State University System. The regulation classifies institutes and centers into three main categories: State of Florida institutes and centers, legislatively established institutes and centers, and university institutes and centers.[15] While most institutes and centers require BOG approval and oversight, certain entities, such as incorporated institutes with university affiliations, including the IHMC, are explicitly excluded from these requirements.[16] Instead, the IHMC operates as an independent not-for-profit research institute affiliated with UWF, and its governance follows specific statutory provisions.[17] Despite this exemption, the host university, UWF, retains responsibilities related to financial oversight and compliance reporting to ensure accountability.

III. Effect of Proposed Changes:

CS/CS/SB 312 modifies s. 1004.447, F.S., by replacing the Board of Governors with the board of directors of the Florida Institute for Human and Machine Cognition, Inc. (IHMC) as the authority to approve the creation of not-for-profit subsidiaries. The bill removes the requirement

[8] Section 1004.447(5)(b), F.S.
[9] Section 1004.447(9), F.S.
[10] *See* State University System of Florida, *Universities,* https://www.flbog.edu/universities/ (last visited Mar. 12, 2025) (identifying 12 state universities).
[11] FLA. CONST. art. IX, s. 7(a)-(d).
[12] Section 1001.705(2), F.S.
[13] *See generally* s. 1008.322(5), F.S.
[14] Board of Governors Regulation 10.015.
[15] *Id.* at (1)(a)-(c).
[16] *See id.* at (1)(e).
[17] Section 1004.447, F.S.

that the Board of Governors approve the articles of incorporation for any authorized and approved subsidiary.

The bill maintains the requirement that records and meetings of the corporation and subsidiaries are subject to Florida's public records and open meetings laws but acknowledges the exemptions in s. 1004.4472, F.S., that make certain information of the corporation or subsidiary confidential or exempt from public disclosure requirements and certain portions of meetings exempt from public meetings requirements.

The bill revises the composition of the IHMC's board of directors. Specifically, the bill removes the chair of the Board of Trustees of the University of West Florida from the board of directors and increases the number of public representatives from nine to ten. This new public representative will be appointed by the Board of Trustees of the University of West Florida.

Additionally, the bill requires the IHMC, rather than the Board of Trustees of the University of West Florida, to certify compliance with state requirements.

The bill amends s. 1004. 4471, F.S., by authorizing IHMC subsidiaries to enter into affiliation agreements with certain universities. The bill includes conforming cross-references.

The bill is effective July 1, 2025.

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, or reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

None identified.

C. Trust Funds Restrictions:

None identified.

D. State Tax or Fee Increases:

None identified.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None identified.

B. Private Sector Impact:

None identified.

C. Government Sector Impact:

This bill does not have an impact on state or local government revenues or expenditures.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None identified.

VIII. Statutes Affected:

This bill substantially amends sections 1004.447 and 1004.4471 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/CS by Governmental Oversight and Accountability on March 25, 2025:
The committee substitute provides that the new public representative on the board of directors of the IHMC will be initially appointed by the Board of Trustees of the University of West Florida.

CS by Education Postsecondary on March 10, 2025:
The committee substitute:

- Removes provisions from the bill that specified subsidiaries as not-for-profit.
- Revises the composition of the Florida Institute for Human and Machine Cognition's board of directors. Specifically:
  - Removes the chair of the Board of Trustees of the University of West Florida.
  - Increases the number of public representatives from nine to ten.

B. Amendments:

None.

By the Committees on Governmental Oversight and Accountability; and Education Postsecondary; and Senators Gaetz and Harrell

585-02818-25 2025312c2

A bill to be entitled

An act relating to the Florida Institute for Human and Machine Cognition, Inc.; amending s. 1004.447, F.S.; requiring the board of directors of the Florida Institute for Human and Machine Cognition, Inc., rather than the Board of Governors, to authorize the creation of a subsidiary of the corporation; requiring that the articles of incorporation of the corporation, rather than of the corporation and any authorized and approved subsidiary, be approved in a written agreement by the Board of Governors; revising the composition of the board of directors of the corporation; requiring the corporation, rather than the Board of Trustees of the University of West Florida, to certify specified information annually to the Governor and Legislature; amending s. 1004.4471, F.S.; authorizing subsidiaries of the corporation to enter into certain affiliation agreements; providing an effective date.

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

Section 1. Paragraph (b) of subsection (1), subsection (4), paragraphs (a) and (b) of subsection (5), and subsection (9) of section 1004.447, Florida Statutes, are amended to read:

1004.447 Florida Institute for Human and Machine Cognition, Inc.—

(1)

(b) The corporation is authorized to create not-for-profit

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corporate subsidiaries that are organized under the provisions of chapter 617 upon the prior approval of its board of directors ~~the Board of Governors~~, as necessary, to fulfill its mission.

(4) The articles of incorporation of the corporation ~~or any authorized and approved subsidiary~~ must be approved in a written agreement by the Board of Governors. The agreement and the articles of incorporation must ~~shall~~:

(a) Provide that the corporation and any authorized and approved subsidiary shall provide equal employment opportunities for all persons regardless of race, color, religion, gender, national origin, age, handicap, or marital status.

(b) Provide that the corporation and any authorized and approved subsidiary are subject to the public records and meeting requirements of s. 24, Art. I of the State Constitution.

(c) Provide that all officers, directors, and employees of the corporation and any authorized and approved subsidiary shall be governed by the code of ethics for public officers and employees as set forth in part III of chapter 112.

(d) Provide that members of the board of directors of the corporation are responsible for the prudent use of all public and private funds and that they will ensure that the use of funds is in accordance with all applicable laws, bylaws, and contractual requirements.

(e) Provide that the fiscal year of the corporation and any authorized and approved subsidiary is from July 1 to June 30.

(5) The affairs of the corporation shall be managed by a board of directors who shall serve without compensation. Each director shall have only one vote.

(a) The board of directors shall consist of:

1. The chair of the Board of Governors or the chair's designee.

2. ~~The chair of the Board of Trustees of the University of West Florida or the chair's designee.~~

~~3.~~ The President of the University of West Florida or the president's designee.

3.~~4.~~ Three state university representatives.

4.~~5.~~ Ten ~~Nine~~ public representatives who are neither state university employees nor state employees.

(b) The Governor, the President of the Senate, and the Speaker of the House of Representatives shall each make one initial appointment of a state university representative to the board of directors. Each director who is a representative of a state university shall be appointed for an initial term of 3 years. The Governor shall make three initial appointments of public representatives to the board of directors. The President of the Senate and the Speaker of the House of Representatives shall each make two initial appointments of public representatives to the board of directors. The chair of the Board of Trustees of the University of West Florida shall make two initial appointments of public representatives to the board of directors. The Board of Trustees of the University of West Florida shall make one appointment of a public representative to the board of directors. Each director who is a representative of the public shall be appointed to serve an initial term of 2 years.

(9) The corporation ~~Board of Trustees of the University of West Florida~~ shall annually certify to the Governor, the President of the Senate, the Speaker of the House of

Representatives, and the Board of Governors that the corporation and its authorized subsidiaries are complying with the requirements of this section and are acting in the best interests of the state.

Section 2. Section 1004.4471, Florida Statutes, is amended to read:

1004.4471 Florida Institute for Human and Machine Cognition; affiliation with other universities.—The corporation created pursuant to s. 1004.447(1) and any authorized and approved subsidiary of the corporation may enter into affiliation agreements similar to the agreement described in s. 1004.447(6) with the boards of trustees of other public or private universities.

Section 3. This act shall take effect July 1, 2025.

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 466
INTRODUCER:	Senator Leek and others
SUBJECT:	Florida Museum of Black History
DATE:	March 31, 2025
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Shuler	Fleming	CA	**Favorable**
2.	Davis	Betta	AEG	**Favorable**
3.	Shuler	Yeatman	RC	**Pre-meeting**

I. Summary:

SB 466 specifies legislative intent recognizing the designation of St. Johns County for the Florida Museum of Black History (museum) by the Florida Museum of Black History Task Force (task force).

The bill establishes and specifies the membership of the Florida Museum of Black History Board of Directors (board) to oversee the commission, construction, operation, and administration of the museum. The board is directed to work with the Foundation for the Museum of Black History, Inc., in its duties. The St. Johns Board of County Commissioners is directed to provide administrative assistance and staffing to the board until the planning, design, and engineering of the museum are completed.

The bill has no expected fiscal impact on state revenues or expenditures. See Section V., Fiscal Impact Statement.

The bill takes effect on July 1, 2025.

II. Present Situation:

Department of State

The Department of State (DOS), created in s. 20.10, F.S., is composed of six divisions: Elections, Historical Resources, Corporations, Library and Information Services, Arts and Culture, and Administration. The head of the DOS is the Secretary of State (Secretary). The Secretary is appointed by and serves at the pleasure of the Governor and is confirmed by the Senate. The Secretary performs functions conferred by the State Constitution upon the custodian

of state records.[1] The Secretary also serves as the state protocol officer and, in consultation with the Governor and other governmental officials, develops, maintains, publishes, and distributes the state protocol manual.[2]

Division of Historical Resources

The DOS's Division of Historical Resources (division) is responsible for preserving and promoting Florida's historical archaeological resources.[3] The division Director's Office oversees a Historic Preservation Grants program to help preserve and maintain Florida's historic buildings and archaeological sites and coordinates outreach programs.[4] The division Director also serves as the State Historic Preservation Officer, acting as the liaison with the national historic preservation program conducted by the National Park Service.[5]

The division is comprised of the following Bureaus:
- Bureau of Historic Preservation;
- Bureau of Historical Museums; and
- Bureau of Archeological Research.[6]

The division is also responsible for encouraging, promoting, maintaining, and operating Florida history museums.[7] The division provides support to museums and works to promote the use of resources for educational and cultural purposes. The division directly oversees the following museums:
- Museum of Florida History, which is the state's official history museum and showcases Florida's diverse history from prehistoric times to the present day;[8]
- Mission San Luis, a living history museum that showcases the life of the Apalachee Indians and Spanish settlers, and also hosts workshops such as pottery and blacksmithing;[9]
- Knott House Museum, which showcases the history of Tallahassee and its role in the civil war including the Emancipation Proclamation being read on the steps of the house in 1865;[10] and
- The Grove Museum, which showcases the life of the Call and Collins families, who owned the property and played a significant role in Florida's history including contributions in agriculture, civil rights, and politics.[11]

Other museums recognized by the state include:

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[1] Section 20.10(1), F.S.
[2] Section 15.01(1), F.S.
[3] *See* s. 267.031, F.S.
[4] Section 267.0617, F.S. *See also* Fla. Dep't of State, *Grants*, https://dos.fl.gov/historical/grants/ (last visited Mar. 12, 2025).
[5] Fla. Dep't of State, *About*, https://dos.myflorida.com/historical/about/ (last visited Mar. 12, 2025); *see also* s. 267.031, F.S.
[6] Fla. Dep't of State, *About*, https://dos.myflorida.com/historical/about/ (last visited Mar. 12, 2025).
[7] Section 267.071(2), F.S.
[8] *Id.*; s*ee also* Fla. Dep't of State, *Museum of Florida History*, https://museumoffloridahistory.com/explore/exhibits/ (last visited Mar. 12, 2025).
[9] *See* Fla. Dep't of State, *Visit Mission San Luis*, https://missionsanluis.org/visit/ (last visited Mar. 17, 2025).
[10] *See* Fla. Dep't of State, *About the Knott House*, https://museumoffloridahistory.com/visit/knott-house-museum/about-the-knott-house/ (last visited Mar. 12, 2025).
[11] *See* Fla. Dep't of State, *The Grove Museum*, https://thegrovemuseum.com/ (last visited Mar. 12, 2025). The Grove Advisory Council advises the division on the operation, maintenance, and preservation of the museum. Section 267.075, F.S.

- Certain state railroad museums;[12]
- The Florida Museum of Transportation and History;[13]
- The John and Mable Ringling Museum of Art;[14]
- The Ringling Museum of the Circus;[15]
- The Florida Historic Capitol Museum;[16]
- The Florida Agricultural Legacy Learning Center;[17] and
- The Florida Museum of Natural History.[18]

Florida Museum of Black History Task Force

During the 2023 Session, the Legislature passed CS/CS/HB 1441 which provided for the creation of the Black History Task Force within the division for the purposes of providing recommendations for the planning, construction, operation, and administration of a Florida Museum of Black History.[19] The task force was comprised of nine members, three each appointed by the Governor, President of the Senate, and Speaker of the House, all of whom served without compensation.[20]

The task force was directed to develop:

- Plans for the location, design, and construction of the museum.
- Recommendations for the operation and administration of the museum.
- A marketing plan to promote the museum.
- A transition plan for the museum to become financially self-sufficient.
- Recommendations for archival and artifact acquisition, preservation, and research; exhibits; and educational materials, which were required to include materials relating to:
  - The role of African-American participation in defending and preserving Florida and the United States, including the contributions of the residents of Fort Mose, the Tuskegee Airmen, and all African-American veterans.
  - The history of slavery in the state.
  - The history of segregation in the state.
  - Notable African Americans in the state.
  - Dr. Mary McLeod Bethune, including the founding of Bethune Cookman University.
  - The history of historically black colleges and universities in this state.

[12] *See* s. 15.045, F.S.
[13] Section 15.046, F.S.
[14] *See* ss. 265.27 and 1004.45, F.S.
[15] Section 1004.45, F.S.
[16] Section 272.129, F.S. The Florida Historic Capitol Museum Council provides guidance and support to the museum director and support staff. S. 272.131, F.S.
[17] Section 570.692, F.S.
[18] Section 1004.56, F.S.
[19] The bill was signed into law by Governor DeSantis on May 11, 2023, and became ch. 2023-72, Laws of Fla., and was codified at s. 267.0722, F.S.
[20] The members were Sen. Geraldine Thompson, Chair, appointed by Senate President Passidomo; Brian M. Butler, appointed by Governor DeSantis; Howard M. Holley, Sr., appointed by Speaker Renner; Rep. Berny Jacques, appointed by Governor DeSantis; Tony Lee, Ed.D., appointed by Governor DeSantis; Rep. Kiyan Michael, appointed by Speaker Renner; Gayle Phillips, appointed by Speaker Renner; Sen. Bobby Powell, appointed by Senate President Passidomo; and Dr. Nashid Madyun, appointed by Senate President Passidomo. Fla. Dep't of State, *The Florida Museum of Black History Task Force*, https://dos.fl.gov/historical/museums/blackhistorytaskforce/ (last visited Mar. 8, 2025).

- The inherent worth and dignity of human life, with a focus on the prevention of genocide.[21]

The task force was required to submit a report to the Governor and Legislature before July 1, 2024, detailing its plans. After the task force submitted the report, the task force was required to disband.[22]

Final Report of the Florida Museum of Black History Task Force

Between September 25, 2023, and June 28, 2024, the task force conducted ten public meetings. The public meetings consisted of presentations from staff, experts, and various community stakeholders. The task force also solicited input from Florida residents and visitors through a survey that gathered responses from over 4,000 individuals. The task force developed their recommendations based on the requirements of s. 267.0722, F.S., and information provided from meeting presentations, public comment, and the survey.[23]

The Final Report was adopted by the task force at its final meeting on June 28, 2024.[24] The principal topic examined by the task force was the most appropriate location to recommend for the future Florida Museum of Black History. The task force heard presentations on potential locations beginning with its October 26, 2023, meeting. To aid the task force in recommending the most appropriate location, staff were asked by the task force to develop Location Selection Criteria to score locations. The task force's final ranking list based on these scores was: St. Augustine/St. Johns County with a score of 96.78; Eatonville/Orange County with a score of 95.33, and Opa-locka with a score of 84.89. The task force voted at its May 21, 2024, meeting to recommend St. Augustine/St. Johns County as the site for the future Florida Museum of Black History.[25]

As required by s. 267.0722, F.S., the task force also included in the Final Report substantive recommendations for design and construction of the museum, operation, administration, and marketing of the museum, as well as recommendations for exhibits and materials to include in the museum.[26]

Proposed site of the Florida Museum of Black History in St. Johns County

Supplemental materials included in the Final Report produced by the task force highlighted the extensive historical heritage of St. Johns County, including the Historic Downtown of St. Augustine.[27] St. Johns County hosts over 10 million visitors and tourists annually seeking to visit

[21] Section 267.0722(5), F.S.
[22] Section 267.0722(6), F.S.
[23] Fla. Museum of Black History Task Force, *Final Report*, (June 28, 2024) at 2-3, https://files.floridados.gov/media/708141/fmbhtf-report-062824-final-compressed.pdf (last visited Mar 12, 2025).
[24] Fla. Dep't of State, *The Florida Museum of Black History Task Force*, https://dos.fl.gov/historical/museums/blackhistorytaskforce/ (last visited Mar. 12, 2025).
[25] Fla. Museum of Black History Task Force, *Final Report*, (June 28, 2024) at 4-6, https://files.floridados.gov/media/708141/fmbhtf-report-062824-final-compressed.pdf (last visited Mar 12, 2025).
[26] *See id.*
[27] Fla. Museum of Black History Task Force, *Final Report*, (June 28, 2024) https://files.floridados.gov/media/708141/fmbhtf-report-062824-final-compressed.pdf (last visited Mar 12, 2025).

numerous historic sites such as Fort Mose, the first legally sanctioned, free African American settlement in the nation.[28]

The St. John County has formed a partnership with the Florida Memorial University (FMU), a historically black university, to curate a property that is 2.5 miles away from the center of Historic Downtown St. Augustine.[29] The St. Johns County Board of County Commissioners voted on April 16, 2024, to negotiate a purchase and sale agreement with the FMU to develop a museum on the FMU campus.[30] The site is a 14.5 acre site that is the former home of the FMU, then known as the Florida Normal & Industrial Institute.[31] The Florida Normal and Industrial Institute came to St. Augustine in 1918, originated through a merger of earlier two institutions dedicated to serving former slaves and their descendants.[32]

Foundation for the Museum of Black History, Inc.

The Foundation for the Museum of Black History, Inc., (Foundation) is a corporation not-for-profit formed under ch. 617, F.S., and operated for charitable purposes under s. 501(c)(3) of the Internal Revenue Code.[33] The Foundation was formed in October of 2024, for the purposes of assisting the community with planning and fundraising initiatives to support the design and construction of the Florida Museum of Black History in St. Johns County and planning projects and events to facilitate fundraising efforts for the creation of the Museum.[34]

III. Effect of Proposed Changes:

SB 466 creates s. 267.07221, F.S., to specify legislative intent recognizing the work of the Florida Museum of Black History Task Force in selecting a location for the museum and designate St. Johns County as the site for the museum. Additionally, the bill specifies legislative intent to establish a board of directors of oversee the commission, construction, operation, and administration of the museum.

The bill establishes the Florida Museum of Black History Board of Directors within the Division of Historical Resources. The bill specifies the membership of the board and requires the appointments to be made by July 31, 2025. Unless the members are classified as ex officio, appointments may not hold state or local elective office while serving on the board. Vacancies

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[28] *Id.*; *see also* Fort Mose Historical Society, *The Fort Mose Story*, https://fortmose.org/about-fort-mose/ (last visited Mar. 12, 2025).
[29] Fla. Museum of Black History Task Force, *Final Report*, (June 28, 2024) https://files.floridados.gov/media/708141/fmbhtf-report-062824-final-compressed.pdf (last visited Mar 12, 2025).
[30] St. Johns Cultural Council, *Florida Museum of Black History Task Force Recommends St. Johns County to Governor's Office as the Location of State's First Black History Museum*, (July 1, 2024) https://stjohnsculture.com/news/florida-museum-of-black-history-task-force-recommends-st-johns-county-to-governors-office-as-the-location-of-states-first-black-history-museum/ (last visited Mar. 12, 2025).
[31] Florida Memorial University, Proposed Location of Black History Museum in St. Augustine, (April 23, 2024), https://www.fmu.edu/proposed-location-of-black-history-museum-in-st-augustine/ (last visited Mar. 12, 2025).
[32] St. Johns Cultural Council, *AL Lewis Archway: Florida Normal & Industrial Institute*, https://historiccoastculture.com/venue/al-lewis-archway-florida-normal-industrial-institute/ (last visited Mar. 12, 2025).
[33] *Articles of Incorporation of The Foundation for the Museum of Black History, Inc.*, (Oct. 21, 2024) https://search.sunbiz.org/Inquiry/CorporationSearch/ConvertTiffToPDF?storagePath=COR%5C2024%5C1115%5C00369832.Tif&documentNumber=N24000013011 (last visited Mar. 12, 2025).
[34] *Id.*

must be filled in the same manner as the original appointments were. The membership of the board is to be composed of:

- Three individuals appointed by the Governor, one of whom serves as chair.
- Three individuals appointed by the President of the Senate.
- Two members of the Senate, appointed by the President of the Senate and serving ex officio.
- Three individuals appointed by the Speaker of the House of Representatives.
- Two members of the House of Representatives, appointed by the Speaker of the House of Representatives and serving ex officio.

The board is directed to work with the Foundation for the Museum of Black History, Inc., in overseeing the commission, construction, operation, and administration of the museum. The St. Johns Board of County Commissioners is directed to provide administrative assistance and staffing to the board of directors until the planning, design, and engineering of the museum are completed.

The bill takes effect July 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

Article VII, s. 19 of the State Constitution requires that legislation that increases or creates taxes or fees be passed by a 2/3 vote of each chamber in a bill with no other subject. The bill does not increase or create new taxes or fees. Thus, the constitutional requirements related to new or increased taxes or fees do not apply.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill has no expected fiscal impact on state revenues or expenditures. The bill requires the St. Johns Board of County Commissioners (county) to provide administrative assistance and staffing to the Florida Museum of Black History Board of Directors. The county can likely accomplish this within existing resources, so any associated costs should be negligible.

VI. Technical Deficiencies:

None.

VII. Related Issues:

It may be more appropriate for a state entity, such as the Department of State, to provide administrative support to the board of directors, as opposed to a county.

VIII. Statutes Affected:

This bill creates section 267.07221 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 Leek

7-00857A-25 2025466__

A bill to be entitled

An act relating to the Florida Museum of Black History; creating s. 267.07221, F.S.; providing legislative intent; establishing the Florida Museum of Black History Board of Directors; providing for the membership of the board; requiring that appointments to the board be made by a specified date; prohibiting specified members of the board from holding state or local elective office while serving on the board; providing for the filling of vacancies; requiring that the board work jointly with the Foundation for the Museum of Black History, Inc.; requiring the St. Johns County Board of County Commissioners to provide administrative support and staffing to the board until specified actions are completed; providing an effective date.

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

Section 1. Section 267.07221, Florida Statutes, is created to read:

267.07221 Florida Museum of Black History Board of Directors.—

(1) It is the intent of the Legislature to recognize the work of the Florida Museum of Black History Task Force in selecting a location for the Florida Museum of Black History and designating St. Johns County as the site for the museum. It is further the intent of the Legislature, under the authority provided in s. 267.0722(7), to establish a board of directors to

7-00857A-25 2025466__

oversee the commission, construction, operation, and administration of the museum.

(2)(a) The Florida Museum of Black History Board of Directors is established within the division and shall be composed of the following members:

1. Three individuals appointed by the Governor, one of whom shall serve as chair.

2. Three individuals appointed by the President of the Senate.

3. Two members of the Senate, appointed by the President of the Senate and serving ex officio.

4. Three individuals appointed by the Speaker of the House of Representatives.

5. Two member of the House of Representatives, appointed by the Speaker of the House of Representatives and serving ex officio.

(b) Appointments must be made no later than July 31, 2025. Members appointed pursuant to subparagraphs (a)1., 2., and 4. may not hold any state or local elective office while serving on the board. Vacancies on the board must be filled in the same manner as the initial appointments.

(3) The board shall work jointly with the Foundation for the Museum of Black History, Inc., a nonprofit organization created to support the creation of the museum.

(4) The St. Johns County Board of County Commissioners shall provide administrative assistance and staffing to the board until the project planning, design, and engineering are completed.

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

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

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL:	CS/SB 578
INTRODUCER:	Commerce and Tourism Committee and Senator Leek
SUBJECT:	Wine Containers
DATE:	March 31, 2025
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	**Favorable**
2.	Dike	McKay	CM	**Fav/CS**
3.	Oxamendi	Yeatman	RC	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 578 allows the sale of wine in any container holding 5.16 gallons. Current law only allows for the sale of wine in reusable containers holding 5.16 gallons. Under current law, wine may also be sold in glass containers holding 4.5 liters, 9 liters, 12 liters, or 15 liters of wine.

The bill takes effect July 1, 2025.

II. Present Situation:

Division of Alcoholic Beverages and Tobacco

The Division of Alcoholic Beverages and Tobacco (division) within the Department of Business and Professional Regulation administers and enforces[1] the Beverage Law,[2] which regulates the manufacture, distribution, and sale of wine, beer, and liquor.[3] The division is also responsible for the administration and enforcement of tobacco products under ch. 569, F.S.

[1] Section 561.02, F.S.
[2] Section 561.01(6), F.S. (provides that the "Beverage Law" means chs. 561, 562, 563, 564, 565, 567, and 568, F.S.).
[3] *See* s. 561.14, F.S.

Wine

The term "wine" means:[4]

> all beverages made from fresh fruits, berries, or grapes, either by natural fermentation or by natural fermentation with brandy added, in the manner required by the laws and regulations of the United States, and includes all sparkling wines, champagnes, combination of the aforesaid beverages, sake, vermouths, and like products. Sugar, flavors, and coloring materials may be added to wine to make it conform to the consumer's taste, except that the ultimate flavor or the color of the product may not be altered to imitate a beverage other than wine or to change the character of the wine.

"Fortified wine" means all wines containing more than 17.259 percent of alcohol by volume.[5]

Wine Container Size Limits

Section 564.05, F.S., prohibits the sale of wine in an individual container that holds more than one gallon (3.785 liters) of wine unless the wine is sold in a reusable container of 5.16 gallons (19.5 liters) or a glass container holding 4.5 liters, 9 liters, 12 liters, or 15 liters of wine.

Qualified distributors and manufacturers may sell wine to other qualified distributors or manufacturers in any size container. Except as provided in s. 564.09, F.S., wine sold or offered for sale by a licensed vendor to be consumed off the premises shall be in the unopened original container.[6]

Any person who violates the prohibition in s. 564.05, F.S., commits a misdemeanor of the second degree.[7]

Federal law specifies fill standards for wine containers.[8] The wine container must be filled to contain the quantity of wine authorized by the federal fill standards so as not to mislead the consumer.[9] The authorized standards of fill range from 50 milliliters to three liters. However, if the fill of the wine container is four liters or larger, the container must be labeled in even liters, e.g., four liters, five liters, etc.[10] There are also several exceptions to the standard fill

[4] Section 564.01(1), F.S.
[5] Section 564.01(2), F.S.
[6] Section 564.09, F.S., allows restaurant patrons to leave a restaurant with an unsealed bottle of wine for consumption off the premises if the patron has purchased a meal and consumed a portion of the bottle of wine on the restaurant premises with certain requirements.
[7] Section 775.082(4), F.S., provides the penalty for a misdemeanor of the second degree is a term of imprisonment not exceeding 60 days. Section 775.083(1)(e), F.S., provides the penalty for a misdemeanor of the second degree is a fine not to exceed $500.
[8] 27 C.F.R. s. 4.70 *et seq.*
[9] 27 C.F.R. s. 4.71.
[10] 27 C.F.R. s. 4.72.

requirements, including exceptions for certain imported wines in original containers, wines bottled before specified dates, and wine packed in containers of 18 liters or more.[11]

III. Effect of Proposed Changes:

The bill revises s. 564.05, F.S., to allow the sale of wine in any container holding 5.16 gallons. Current law only allows for the sale of wine in reusable containers holding 5.16 gallons.

The bill takes effect July 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

[11] 27 C.F.R. s. 4.70. The standard wine barrel is 225 liters or 59 gallons. *See* Wine Industry Advisor, *Living Large: Supersizing Barrels for a Subtler Impact*, available at https://wineindustryadvisor.com/2020/08/11/living-large-supersizing-barrels-for-a-subtler-impact (last visited Mar. 25, 2025).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 564.05 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 Commerce and Tourism on March 25, 2025:
The amendment removes the words "recyclable" and "reusable" to allow wine to be stored in any type of container under this section.

B. Amendments:

None.

By the Committee on Commerce and Tourism; and Senator Leek

577-02801-25 2025578c1

A bill to be entitled

An act relating to wine containers; amending s. 564.05, F.S.; revising an exception to the maximum allowable capacity for an individual container of wine sold in this state; providing an effective date.

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

Section 1. Section 564.05, Florida Statutes, is amended to read:

564.05 Limitation of size of individual wine containers; penalty.—It is unlawful for a person to sell within this state wine in an individual container holding more than 1 gallon of such wine, unless such wine is in a ~~reusable~~ container holding 5.16 gallons or a glass container holding 4.5 liters, 6 liters, 9 liters, 12 liters, or 15 liters. However, qualified distributors and manufacturers may sell wine to other qualified distributors or manufacturers in any size container. Except as provided in s. 564.09, wine sold or offered for sale by a licensed vendor to be consumed off the premises must ~~shall~~ be in the unopened original container. A person convicted of a violation of this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

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

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 582
INTRODUCER:	Senator Leek
SUBJECT:	Unlawful Demolition of Historical Buildings and Structures
DATE:	March 31, 2025
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Shuler	Fleming	CA	**Favorable**
2.	McVaney	McVaney	GO	**Favorable**
3.	Shuler	Yeatman	RC	**Pre-meeting**

I. Summary:

SB 582 authorizes a code enforcement board or special magistrate to impose increased fines for the demolition of a structure listed on the National Register of Historic Places. To impose the fine, the demolition of the historic structure must have been knowing and willful, not permitted, and not the result of a natural disaster.

The bill is not expected to have a significant impact on state and local government revenues and expenditures.

The bill takes effect July 1, 2025.

II. Present Situation:

County and Municipal Code Enforcement

Code enforcement is a function of local government and affects people's daily lives. Its purpose is to enhance the quality of life and economy of local government by protecting the health, safety, and welfare of the community.[1] Chapters 125, 162, and 166 of the Florida Statutes[2] provide counties and municipalities with a mechanism to enforce their codes and ordinances. These statutes provide non-binding, permissible code enforcement mechanisms that may be used by local governments in any combination they choose, and they may enforce their codes by any other means.[3]

[1] Section 162.02, F.S.

[2] Chapter 125, Part II, F.S. (county self-government), ch. 162, Part I, F.S. (the Code Enforcement Boards Act), ch. 162, Part II, F.S. (supplemental procedures for county or municipal code or ordinance enforcement procedures), and s. 166.0415, F.S. (city ordinance enforcement).

[3] Sections 125.69(4)(k), 162.13, 162.21(8), and 166.0415(7), F.S.

Code Enforcement Boards Act (Part I, Ch. 162, F.S.)

The Local Government Code Enforcement Boards Act (Act), located in Part I of ch. 162, F.S., allows each county and municipality to create by ordinance one or more local government code enforcement boards.[4] A code enforcement board is an administrative board made up of members appointed by the governing body of a county or municipality with the authority to hold hearings and impose administrative fines and other noncriminal penalties for violations of county or municipal codes or ordinances.[5] Members of the enforcement boards[6] must be residents of the respective municipality or county and, whenever possible, must include an architect, a businessperson, an engineer, a general contractor, a subcontractor, and a realtor.[7]

Code enforcement boards have the power to:

- Adopt rules for the conduct of its hearings;
- Subpoena alleged violators, witnesses, and evidence to its hearings;
- Take testimony under oath; and
- Issue orders that have the force of law to command steps necessary to bring a violation into compliance.[8]

Section 162.06, F.S., establishes the procedures for local governments to address violations of various codes using a code enforcement board. It begins with the county or municipal code inspector[9] who initiates code enforcement procedures by notifying the violator and giving him or her reasonable time to correct the violation.[10] If the violation continues to exist after such time period as specified by the code inspector,[11] then the inspector will notify the code enforcement board and request a hearing.[12]

In each case heard before a code enforcement board, the case is presented, and testimony is taken, from both the code inspector and alleged violator.[13] At the conclusion of the hearing, the board issues findings of fact and provides an order stating the proper relief granted.[14] All final administrative orders of the code enforcement board may be appealed to the circuit court 30 days after execution of the order.[15]

[4] Section 162.03, F.S.
[5] Sections 162.02 and 162.05(1), F.S.
[6] Code enforcement boards are either five-member or seven-member boards. If a local government has a population over 5,000 persons, the board must be a seven-member board. Section 162.05, F.S.
[7] Section 162.05(2), F.S.
[8] Section 162.08, F.S.
[9] Section 162.04(2), F.S., defines the term "code inspector" to mean "any authorized agent or employee of the county or municipality whose duty it is to assure code compliance."
[10] Section 162.06(2), F.S.
[11] The code inspector does not need to provide the violator reasonable time to remedy the violation if it is a repeat violation; the violation presents a serious threat to the public health, safety, and welfare; or the violation is irreparable or irreversible in nature. Sections. 162.06(3) and (4), F.S.
[12] Section 162.06(2), F.S. A hearing may also be called by written notice signed by at least three members of a seven-member enforcement board or signed by at least two members of a five-member enforcement board. Section 162.07(1), F.S.
[13] Section 162.07(2)-(3), F.S.
[14] Section 162.07(4), F.S.
[15] Section 162.11, F.S.

As an alternative to a code enforcement board, the Act allows counties and municipalities to adopt an alternate code enforcement system that gives code enforcement officials or special magistrates the authority to hold hearings and assess fines against violators of respective codes or ordinances.[16] Each of these methods are offered by statute as devices to be used at the local governments' discretion, but a local government may use any method they choose to enforce codes and ordinances.[17]

Administrative Fines for Code Enforcement Violations

A code enforcement board may, upon notification by the code inspector that repairs have not been completed by a specified date or upon finding that repeat violations have occurred, order violators to pay a fine for each day of the continued violation.[18] If the violation presents a serious threat to the public health, safety, and welfare, the code enforcement board must notify the local governing body, which may make all reasonable repairs to bring the property in compliance and charge the violator the reasonable cost of those repairs in addition to the fine imposed.[19] If, after due notice and hearing, a code enforcement board finds a violation to be irreparable or irreversible in nature, it may order the violator to pay a fine.[20]

Administrative fines may not exceed $250 per day for a first violation and may not exceed $500 per day for a repeat violation.[21] If the board finds the violation is irreparable or irreversible in nature, the board may impose a fine of up to $5,000.[22] When determining the amount of the fine, the board may consider the following factors:

- The gravity of the violation.
- Any actions taken by the violator to correct the violation.
- Any previous violations committed by the violator.[23]

A code enforcement board may choose to reduce the amount of the fine initially imposed.[24]

A county or municipality with a population of 50,000 or greater may adopt, by a majority vote plus one of the entire governing body, an ordinance that allows code enforcement boards or special magistrates to impose fines in excess of the above limits.[25] The ordinance may provide for fines of up to $1,000 per day per violation for a first violation, $5,000 per day per violation for a repeat violation, and up to $15,000 per violation if the code enforcement board or special

[16] Section 162.03, F.S.
[17] The Attorney General has opined that "once a municipality has adopted the procedures of Chapter 162, Florida Statutes, to enforce its municipal codes and ordinances, it may not alter or amend those statutorily prescribed procedures but must utilize them as they are set forth in the statutes." Op. Att'y Gen. 2000-53 (2000). A local government may, however, maintain a ch. 162, F.S., code enforcement board and still decide to enforce a particular violation by bringing a charge in county court, or any other means provided by law. *Goodman v. Cnty. Court in Broward Cnty., Fla.* 711 So. 2d 587 (Fla 4th DCA 1998).
[18] Section 162.09(1), F.S.
[19] *Id.*
[20] *Id.*
[21] Section 162.09(2)(a), F.S.
[22] *Id.*
[23] Section 162.09(2)(b), F.S.
[24] Section 162.09(2)(c), F.S.
[25] Section 162.09(2)(d), F.S.

magistrate finds the violation to be irreparable or irreversible in nature.[26] In addition to such fines, a code enforcement board or special magistrate may impose additional fines to cover all costs incurred by the local government in enforcing its codes and all costs of repairs.[27] Any ordinance imposing such fines must include criteria to be considered by the code enforcement board or special magistrate in determining the amount of the fines.[28]

A certified copy of an order imposing a fine, including any repair costs incurred by the local government, may be recorded in the public records and constitutes a lien against the land on which the violation exists and upon any other real or personal property owned by the violator.[29] Upon petition to the circuit court, the order is enforceable in the same manner as a court judgment, including execution and levy against the personal property of the violator, but such order cannot be deemed to be a court judgment except for enforcement purposes.[30] A lien arising from such a fine runs in favor of the local governing body, and the local governing body may execute a satisfaction or release of lien entered.[31]

National Register of Historic Places

The National Register of Historic Places,[32] under the National Park Service is the official list of the Nation's historic places worthy of preservation is "part of a national program to coordinate and support public and private efforts to identify, evaluate, and protect America's historic and archeological resources."[33] The program reviews property nominations and lists eligible properties in the National Register; offers guidance on evaluating, documenting, and listing historic places; and helps qualified historic properties receive preservation benefits and incentives.[34]

In Florida, there are more than 1,700 properties and districts listed on the National Register.[35] Nominations for those properties must be submitted to the National Park Service through the Florida Department of State's Division of Resources, following a review and recommendation by the Florida National Register Review Board.[36] Listing in the National Register does not, in itself, impose any obligation on the property owner, or restrict the owner's basic right to use and dispose of the property as he or she sees fit, but does encourage the preservation of significant historic resources.[37]

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[26] *Id.*
[27] *Id.*
[28] *Id.*
[29] Section 162.09(3), F.S.
[30] *Id.*
[31] *Id.*
[32] 54 U.S.C. ch. 3021.
[33] U.S. Department of the Interior, National Park Service, National Register of Historic Places, *What is the National Register of Historic Places?*, https://www.nps.gov/subjects/nationalregister/what-is-the-national-register.htm (last visited Mar. 21, 2025).
[34] *Id.*
[35] Fla. Dep't of State, *National Register of Historic Places*, https://dos.myflorida.com/historical/preservation/national-register/ (last visited Mar. 21, 2025).
[36] *Id.*
[37] *Id.*

Demolition Permits

It is unlawful for a person, firm, or corporation to construct, erect, alter, repair, secure, or demolish any building without first obtaining a building permit from the local government or from such persons as may, by resolution or regulation, be directed to issue such permit, upon the payment of reasonable fees as set forth in a schedule of fees adopted by the enforcing agency.[38] The enforcing agency may revoke any such permit if the demolition is in violation of, or not in conformity with, the provisions of the Building Code.[39]

A local law, ordinance, or regulation may not prohibit or otherwise restrict the ability of a private property owner to obtain a building permit to demolish his or her single-family residential structure provided that such structure is located in a coastal high-hazard area, moderate flood zone, or special flood hazard area according to a Flood Insurance Rate Map issued by the Federal Emergency Management Agency for the purpose of participating in the National Flood Insurance Program if the lowest finished floor elevation of such structure is at or below base flood elevation as established by the Building Code or a higher base flood elevation as may be required by local ordinance, whichever is higher, provided the permit complies with all applicable Building Code, Fire Prevention Code, and local amendments to such codes.[40]

However, a local law, ordinance, or regulation may restrict demolition permits for certain designated historic structures:

- Structure designated on the National Register of Historic Places;
- Privately owned single-family residential structure designated historic by a local, state, or federal governmental agency on or before January 1, 2022; or
- Privately owned single-family residential structure designated historic after January 1, 2022, by a local, state, or federal governmental agency with the consent of its owner.[41]

III. Effect of Proposed Changes:

SB 582 authorizes a code enforcement board or special magistrate to impose a fine that exceeds the limits specified in s. 162.09, F.S., for the demolition of a structure that is individually listed on the National Register of Historic Places or is a contributing resource to a district listed on the National Register. To impose the fine, a code enforcement board or special magistrate must find, based on competent substantial evidence, that the demolition of the historic structure was knowing and willful and not permitted or the result of a natural disaster. The fine may not exceed 20 percent of the fair or just market value of the property as determined by the property appraiser.

The bill takes effect July 1, 2025.

[38] Section 553.79(1)(a), F.S.
[39] *Id.*
[40] Section 553.79(25)(a), F.S.
[41] Section 553.79(25)(d), F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

None identified.

C. Trust Funds Restrictions:

None identified.

D. State Tax or Fee Increases:

Article VII, s. 19 of the State Constitution requires that legislation that increases or creates taxes or fees be passed by a 2/3 vote of each chamber in a bill with no other subject. The bill does not increase or create new taxes or fees. Thus, the constitutional requirements related to new or increased taxes or fees do not apply.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None identified.

B. Private Sector Impact:

None identified.

C. Government Sector Impact:

Local governments may receive increased revenues from additional fines for the demolition of buildings listed on the National Register without permits.

VI. Technical Deficiencies:

None identified.

VII. Related Issues:

None identified.

VIII. Statutes Affected:

This bill substantially amends section 162.09 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 Leek

7-00629B-25 2025582__

A bill to be entitled

An act relating to unlawful demolition of historical buildings and structures; amending s. 162.09, F.S.; authorizing a code enforcement board or special magistrate to impose a fine that exceeds certain limits for the unlawful demolition of certain historical buildings or structures under certain circumstances; providing that such fine may not exceed a certain percentage of just market valuation; providing an effective date.

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

Section 1. Paragraph (e) is added to subsection (2) of section 162.09, Florida Statutes, to read:

162.09 Administrative fines; costs of repair; liens.—

(2)

(e) For the demolition of a building or structure that is individually listed in the National Register of Historic Places as defined in s. 267.021 or is a contributing resource to a National Register-listed district, a code enforcement board or special magistrate may impose a fine that exceeds the limits of this subsection if the code enforcement board or special magistrate finds, based on competent substantial evidence, that the demolition of the building or structure was knowing and willful and was not permitted or the result of a natural disaster. A fine imposed pursuant to this paragraph may not exceed 20 percent of the fair or just market valuation of the property before demolition of the building or structure, as determined by the property appraiser.

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

Florida Senate - 2025 **SB 582**

7-00629B-25 2025582__

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

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL:	CS/SB 678
INTRODUCER:	Commerce and Tourism Committee and Senator Truenow
SUBJECT:	Pawnbroker Transaction Forms
DATE:	March 31, 2025 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Renner	McKay	CM	**Fav/CS**
2.	Wiseheart	Betta	AEG	**Favorable**
3.	Renner	Yeatman	RC	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 678 authorizes pawnbroker transaction forms, which are approved by the Department of Agriculture and Consumer Services (DACS) and are used to record pawns and purchases by pawnbrokers, to be in digital or print format instead of only print format. Digital forms must be in a font size of at least 12 points. Pawnbrokers may use either format.

The bill is not anticipated to have a fiscal impact on state or local government revenues or expenditures. **See Section V., Fiscal Impact Statement.**

The bill takes effect July 1, 2025.

II. Present Situation:

Pawnbrokers[1] must apply for and obtain a license from the DACS annually.[2] To be eligible for the license, each pawnshop must maintain a net worth of at least $50,000 or file security in the

[1] A "pawnbroker" is a person who is engaged in the business of making pawns; who makes a public display containing the term "pawn," "pawnbroker," or "pawnshop" or any derivative thereof; or who publicly displays a sign or symbol historically identified with pawns. Pawnbrokers may also engage in purchasing goods which includes consignment and trade. Section 539.001(1)(i), F.S. A "pawn" is any advancement of funds on the security of pledged goods on condition that the pledged goods are left in the possession of the pawnbroker for the duration of the pawn and may be redeemed by the pledgor on certain terms and conditions. Section 539.001(1)(h), F.S.

[2] Section 539.001(3), F.S.

form of a surety bond, letter of credit, or certificate of deposit in the amount of $10,000 for each license.[3] DACS is authorized to impose penalties of up to $5,000 for noncompliance with the law.[4]

Pawnbroker Transaction Forms

When a pawnbroker enters into any pawn or purchase transaction, the pawnbroker must complete a pawnbroker transaction form, indicating whether the transaction is a pawn or a purchase. The pledgor[5] or seller must sign the completed form. The DACS must approve the design and format of the pawnbroker transaction form, which must be 8.5 inches x 11 inches in size.[6] The pawnbroker must record the following identifying information on the front of the form, which must be typed or written indelibly and legibly in English:[7]

- The name and address of the pawnshop.
- A complete and accurate description of the pledged goods or purchased goods including certain identifying information.
- The name, address, home, telephone number, place of employment, date of birth, physical description, and right thumbprint of the pledgor or seller.
- The date and time of the transaction.
- The type of identification accepted from the pledgor or seller, including the issuing agency and the identification number.
- In the case of a pawn:
  - The amount of money advanced, which must be designated as the amount financed.
  - The maturity date of the pawn, which must be 30 days after the date of the pawn.
  - The default date of the pawn and the amount due on the default date.
  - The total pawn service charge payable on the maturity date, which must be designated as the finance charge.
  - The amount financed plus the finance charge that must be paid to redeem the pledged goods on the maturity date, which must be designated as the total of payments.
  - The annual percentage rate.
  - The front or back of the pawnbroker transaction form must include certain information specific to pawns.
- In the case of a purchase, the amount of money paid for the goods or the monetary value assigned to the goods in connection with the transaction.
- A statement that the pledgor or seller of the item represents and warrants that it is not stolen, that it has no liens or encumbrances against it, and that the pledgor or seller is the rightful owner of the goods and has the right to enter into the transaction.

The front or back of the transaction form must include the following statements:

- Any personal property pledged to a pawnbroker in Florida that is not redeemed within 39 days following the maturity date of the pawn is automatically forfeited to the pawnbroker,

[3] Section 539.001(4), F.S.
[4] Fla. Admin. Code R. 5J-13.004 (2016).
[5] A "pledgor" is the person pledging the goods into the possession of a pawnbroker in connection with a pawn. Section 539.001(2)(p), F.S.
[6] Section 539.001(8)(a), F.S.
[7] Section 539.001(8)(b), F.S.

and absolute right, title, and interest in and to the property vests in and is deemed conveyed to the pawnbroker by operation of law, and no further notice is necessary.
- The pledgor is not obligated to redeem the pledged goods.
- If the pawnbroker transaction form is lost, destroyed, or stolen, the pledgor must immediately advertise the issuing pawnbroker in writing by certified or registered mail, return receipt requested, or in person evidenced by a signed receipt.
- A pawn can be extended upon mutual agreement of the parties.
- A statement that the pledgor or seller of the item represents and warrants that it is not stolen, that it has no liens or encumbrances against it, and that the pledgor or seller is the rightful owner of the goods and has the right to enter into the transaction. Any person who knowingly gives false verification of ownership or gives a false or altered identification and who receives money from a pawnbroker for goods sold or pledged commits:
  - A third degree felony[8] if the value of money is less than $300; or
  - A second degree[9] felony if the value of the money received is $300 or more.

Pawnbroker Transaction Form Recordkeeping

A pawnbroker must provide a pledgor or seller with a copy of a pawnbroker transaction form at the time of the pawn or sale. Pawnbroker transaction forms must be kept on the pawnshop's premises for at least one year after the transaction's date.[10]

Before the end of each business day, a pawnbroker must deliver the original pawnbroker transaction forms to the appropriate official[11] for the local law enforcement agency for all of the transactions during the previous business day unless other arrangements have been agreed upon by the pawnbroker and the appropriate law enforcement agency.[12]

In lieu of physically delivering the original pawnbroker transaction forms, a local law enforcement agency may supply software to a pawnbroker so the pawnbroker may electronically transfer the transaction forms to the law enforcement agency. If a pawnbroker does not have a computer to use such software, the law enforcement agency may provide a computer to the pawnbroker. The law enforcement agency retains ownership of the computer unless otherwise agreed upon. The pawnbroker must maintain the computer in good working order, ordinary wear and tear excepted.[13]

[8] A third degree felony is punishable by up to 5 years and a $5,000 fine. Sections 775.082, 775.083, or 775.084, F.S.
[9] A second degree felony is punishable by up to 15 years imprisonment and a $10,000 fine. Sections 775.082, 775.083, and 775.084, F.S.
[10] Section 539.001(9), F.S.
[11] The appropriate law enforcement official is the sheriff of the county in which a pawnshop is located or, in case of a pawnshop located within a municipality, the police chief of the municipality in which the pawnshop is located. Any sheriff or police chief may designate any law enforcement officer working within the county or municipality as the appropriate law enforcement official. Section 539.001(1)(b), F.S.
[12] *Id.*
[13] *Id.*

III. Effect of Proposed Changes:

The bill amends s. 539.001, F.S., to authorize pawnbroker transaction forms in digital or print format instead of only print format. Digital forms must have a font size of at least 12 points. Pawnbrokers may use either format.

The bill takes effect July 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may have a positive fiscal impact on pawnbrokers by allowing them to use digital pawnbroker transaction forms.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 539.001 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 Commerce and Tourism on March 10, 2025:
The committee substitute:

- Clarifies that a digital pawnbroker transaction form must be in a font size of at least 12 points and that a pawnbroker is authorized to use either a print or digital format; and
- Clarifies that the transaction forms may be in a print or digital format for pawnbroker recordkeeping and reporting requirements.

B. Amendments:

None.

By the Committee on Commerce and Tourism; and Senator Truenow

577-02243-25 2025678c1

A bill to be entitled

An act relating to pawnbroker transaction forms; amending s. 539.001, F.S.; authorizing pawnbroker transaction forms to be in digital or printed formats; authorizing a pawnbroker to use either format; revising recordkeeping requirements; providing an effective date.

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

Section 1. Subsection (8) and paragraphs (a) and (b) of subsection (9) of section 539.001, Florida Statutes, are amended to read:

539.001 The Florida Pawnbroking Act.—

(8) PAWNBROKER TRANSACTION FORM.—

(a) At the time the pawnbroker enters into any pawn or purchase transaction, the pawnbroker shall complete a pawnbroker transaction form for such transaction, including an indication of whether the transaction is a pawn or a purchase, and the pledgor or seller shall sign such completed form. The agency must approve the design and format of the pawnbroker transaction form, which must be 8 1/2 inches x 11 inches in size for printed forms and be in a font size of at least 12 points for digital forms and elicit the information required under this section in a digital or printed format. The pawnbroker may use either format. In completing the pawnbroker transaction form, the pawnbroker shall record the following information, which must be typed or written indelibly and legibly in English.

(b) The front of a printed ~~the~~ pawnbroker transaction form

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and the first page of a digital form must include:

1. The name and address of the pawnshop.

2. A complete and accurate description of the pledged goods or purchased goods, including the following information, if applicable:

a. Brand name.

b. Model number.

c. Manufacturer's serial number.

d. Size.

e. Color, as apparent to the untrained eye.

f. Precious metal type, weight, and content, if known.

g. Gemstone description, including the number of stones.

h. In the case of firearms, the type of action, caliber or gauge, number of barrels, barrel length, and finish.

i. Any other unique identifying marks, numbers, names, or letters.

Notwithstanding sub-subparagraphs a.-i., in the case of multiple items of a similar nature delivered together in one transaction which do not bear serial or model numbers and which do not include precious metal or gemstones, such as musical or video recordings, books, and hand tools, the description of the items is adequate if it contains the quantity of items and a description of the type of items delivered.

3. The name, address, home telephone number, place of employment, date of birth, physical description, and right thumbprint of the pledgor or seller.

4. The date and time of the transaction.

5. The type of identification accepted from the pledgor or

seller, including the issuing agency and the identification number.

6. In the case of a pawn:

a. The amount of money advanced, which must be designated as the amount financed;

b. The maturity date of the pawn, which must be 30 days after the date of the pawn;

c. The default date of the pawn and the amount due on the default date;

d. The total pawn service charge payable on the maturity date, which must be designated as the finance charge;

e. The amount financed plus the finance charge that must be paid to redeem the pledged goods on the maturity date, which must be designated as the total of payments;

f. The annual percentage rate, computed according to the regulations adopted by the Federal Reserve Board under the federal Truth in Lending Act; and

g. The front or back of a printed ~~the~~ pawnbroker transaction form and the first or second page of a digital pawnbroker transaction form must include a statement that:

(I) Any personal property pledged to a pawnbroker within this state which is not redeemed within 30 days following the maturity date of the pawn, if the 30th day is not a business day, then the following business day, is automatically forfeited to the pawnbroker, and absolute right, title, and interest in and to the property vests in and is deemed conveyed to the pawnbroker by operation of law, and no further notice is necessary;

(II) The pledgor is not obligated to redeem the pledged

goods; and

(III) If the pawnbroker transaction form is lost, destroyed, or stolen, the pledgor must immediately advise the issuing pawnbroker in writing by certified or registered mail, return receipt requested, or in person evidenced by a signed receipt.

(IV) A pawn may be extended upon mutual agreement of the parties.

7. In the case of a purchase, the amount of money paid for the goods or the monetary value assigned to the goods in connection with the transaction.

8. A statement that the pledgor or seller of the item represents and warrants that it is not stolen, that it has no liens or encumbrances against it, and that the pledgor or seller is the rightful owner of the goods and has the right to enter into the transaction. Any person who knowingly gives false verification of ownership or gives a false or altered identification and who receives money from a pawnbroker for goods sold or pledged commits:

a. If the value of the money received is less than $300, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

b. If the value of the money received is $300 or more, a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) A pawnbroker transaction form must provide a space for the imprint of the right thumbprint of the pledgor or seller and a blank line for the signature of the pledgor or seller.

(d) At the time of the pawn or purchase transaction, the

pawnbroker shall deliver to the pledgor or seller an exact copy of the completed pawnbroker transaction form.

(9) RECORDKEEPING; REPORTING; HOLD PERIOD.—

(a) A pawnbroker must maintain a copy of each completed pawnbroker transaction form on the pawnshop premises for at least 1 year after the date of the transaction. On or before the end of each business day, the pawnbroker must deliver to the appropriate law enforcement official the original printed pawnbroker transaction forms or printed copies of the digital pawnbroker transaction forms for each of the transactions occurring during the previous business day, unless other arrangements have been agreed upon between the pawnbroker and the appropriate law enforcement official. If an ~~the~~ original printed transaction form is lost or destroyed by the appropriate law enforcement official, a copy may be used by the pawnbroker as evidence in court. When an electronic image of a pledgor or seller identification is accepted for a transaction, the pawnbroker must maintain the electronic image in order to meet the same recordkeeping requirements as for the original printed transaction form. If a criminal investigation occurs, the pawnbroker shall, upon request, provide a clear and legible copy of the image to the appropriate law enforcement official.

(b) If the appropriate law enforcement agency supplies the appropriate software and the pawnbroker presently has the computer ability, pawn transactions shall be electronically transferred. If a pawnbroker does not presently have the computer ability, the appropriate law enforcement agency may provide the pawnbroker with a computer and all necessary equipment for the purpose of electronically transferring pawn

transactions. The appropriate law enforcement agency shall retain ownership of the computer, unless otherwise agreed upon. The pawnbroker shall maintain the computer in good working order, ordinary wear and tear excepted. In the event the pawnbroker transfers pawn transactions electronically, the pawnbroker is not required to also deliver to the appropriate law enforcement official the original or copies of the pawnbroker transaction forms. The appropriate law enforcement official may, for the purposes of a criminal investigation, request that the pawnbroker produce an original of a printed transaction form that has been electronically transferred. The pawnbroker shall deliver this form to the appropriate law enforcement official within 24 hours of the request.

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

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 806
INTRODUCER:	Judiciary Committee and Senator Yarborough
SUBJECT:	Florida Trust Code
DATE:	March 31, 2025
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bond	Cibula	JU	**Fav/CS**
2.	Atchley	Harkness	ACJ	**Favorable**
3.	Bond	Yeatman	RC	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 806 provides that, where the Attorney General has asserted his or her authority to enforce the terms of a charitable trust having its principal place of administration in this state, the Attorney General has the exclusive standing to assert the interests of the general public in the trust. The term "standing" means the legal right to pursue a particular civil action. This would have the effect of limiting the common law special interest rule that gives a person having a "special interest" in a charitable trust standing to file an action to enforce the terms of the charitable trust.

The bill does not have a fiscal impact on state revenues or expenditures. See Section V. Fiscal Impact Statement.

The bill is effective upon becoming a law.

II. Present Situation:

Trust Law – In General

A trust is an entity established by a settlor to hold, invest, and distribute property on behalf of one or more beneficiaries, in compliance with the terms of the trust as established by the settlor.[1]

[1] The settlor is the person who created the trust. The settlor provides the funding or assets of the trust and drafts the terms of the trust.

Where the beneficiary of the trust is a charitable organization or a general charitable purpose, the trust is known as a "charitable trust." An individual or entity managing a trust is known as a trustee.

Most trust arrangements operate privately, without oversight by the courts or any regulatory authority. However, interested parties may turn to the courts to enforce the terms of a trust. A person who has the legal right to be a party to a lawsuit regarding enforcement of a trust is known as one who has "standing" to appear in the lawsuit.[2] In a private trust arrangement, only the settlor, or any of the individual named beneficiaries, has legal standing to appear in the probate court to enforce the terms of the trust. As to a charitable trust, the settlor, a named charitable organization beneficiary, and the Attorney General have statutory standing to enforce a charitable trust.[3]

The Attorney General is not required to enforce the terms of a charitable trust. He or she simply has the option to enforce the terms of a charitable trust. The reason that the Attorney General has standing is that, "unlike a private trust, where there are identifiable beneficiaries who are the equitable owners of the trust property, the beneficiaries of a charitable trust are the public at large."[4]

Florida courts recognize a common law exception to the limits of standing whereby a person alleging a special interest, an interest beyond the general interest possessed by the public at large, may be granted standing to enforce the terms of a charitable trust.[5] The reason for requiring a special interest is: "If it were otherwise there would be no end to potential litigation against a given [charitable trust], whether he be a public official or otherwise, brought by individuals or residents, all possessed by the same general interest . . . ."[6]

The common law "special interest" exception to the general rule of standing to file an action to enforce a trust provision in a charitable trust has not been codified in the Trust Code, although it is alluded to in s. 736.0405(3), F.S. In a 2024 case, a district court of appeal noted that the special interest rule had not been changed by statute and stated that the Legislature could change or eliminate that common law rule by amending the Trust Code.[7]

The Attorney General

The Attorney General is a statewide elected official whose office is created by the state constitution.[8] The Attorney General is the chief state's legal officer and represents the general interests of the citizens of the state.

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[2] The concept of standing is not unique to trust litigation. It applies to all civil litigation.
[3] Sections 736.0110 and 736.0405, F.S.; *State of Del. ex rel. Gebelein v. Fla. First Nat. Bank of Jacksonville*, 381 So. 2d 1075, 1077 (Fla. 1st DCA 1979).
[4] *Id*.
[5] See *United States Steel Corp. v. Save Sand Key*, 303 So.2d 9 (Fla. 1974).
[6] *Askew v. Hold the Bulkhead-Save our Bays*, 269 So.2d 696 (Fla. 2d DCA 1972).
[7] *Jennings v. Durden*, No. 5D2023-0064, 2024 WL 2788198, at *6 (Fla. 5th DCA May 31, 2024), review denied sub nom. *Uthmeier v. Jennings*, No. SC2024-1372, 2025 WL 561329 (Fla. Feb. 20, 2025). In this case, the State of Delaware claims a special interest in enforcing the terms of a charitable trust that includes the condition "first consideration, in each instance, being given to beneficiaries who are residents of Delaware."
[8] Article IV, s. 4(b), STATE CONST.

III. Effect of Proposed Changes:

The bill amends s. 736.0110, F.S., to change the common law special interest rule regarding standing to enforce the terms of a charitable trust. The bill provides that where the Florida Attorney General has assumed the role of enforcing the terms of a charitable trust, the Attorney General has exclusive standing to assert the rights of a qualified beneficiary[9] related to that charitable trust. Where the Florida Attorney General has assumed the role, the Attorney General represents the interests of the general public, unnamed charitable beneficiaries, and any person with a common law special interest in the trust. The Attorney General may seek relief in all matters regarding the charitable trust, including contract and trust law claims relating to charitable distributions and the exercise of trustee powers.

The bill specifies that neither the Attorney General of another state, nor any other state official of another state, may assert the rights of a qualified beneficiary as to a Florida charitable trust.

The bill amends s. 736.0106, F.S., to conform provisions to changes made by the act. The bill also amends s. 736.0405, F.S., to reiterate that the Attorney General of any other state, or any other public official of another state, may not seek enforcement of the terms of a Florida charitable trust.

The bill is effective 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.

[9] A "qualified beneficiary" is a beneficiary who has standing to enforce the terms of a trust.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Should the Florida Attorney General act, the bill would prohibit the Attorney General of the State of Delaware from continuing to enjoy special interest standing in the trust action regarding the trust created by the will of Alfred I. duPont, which created the Nemours Foundation. The Nemours Foundation operates children's hospitals and health care facilities in multiple states.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 736.0110, 736.0106, and 736.0405.

This bill reenacts part of section 738.303 of the Florida Statutes.

IX. Additional Information:

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

CS by Judiciary on March 12, 2025:
The amendment removed the exclusive standing of the Florida Attorney General to enforce the terms of a charitable trust applicable to all charitable trusts. Instead, the exclusive standing of the Attorney General applies only when he or she asserts the right to enforce the charitable trust. The amendment preserves the special interest rule when the Attorney General is not involved in litigation regarding a charitable trust.

B. Amendments:

None.

By the Committee on Judiciary; and Senator Yarborough

590-02320-25 2025806c1

A bill to be entitled

An act relating to the Florida Trust Code; amending s. 736.0110, F.S.; specifying circumstances in which the Attorney General has the exclusive authority to represent certain interests relating to a charitable trust having its principal place of administration in this state; prohibiting certain public officers of another state from asserting such rights; amending s. 736.0106, F.S.; conforming provisions to changes made by the act; amending s. 736.0405, F.S.; providing construction; reenacting s. 738.303(2)(b) and (d), F.S., relating to authority of a fiduciary, to incorporate the amendment made to s. 736.0110, F.S., in references thereto; providing an effective date.

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

Section 1. Subsection (3) of section 736.0110, Florida Statutes, is amended to read:

736.0110 Others treated as qualified beneficiaries.—

(3)(a) The Attorney General may assert the rights of a qualified beneficiary with respect to a charitable trust having its principal place of administration in this state. The Attorney General has standing to assert such rights in any judicial proceedings.

(b) Where the Attorney General asserts the rights of a qualified beneficiary as provided in paragraph (a), the Attorney General has the exclusive authority to represent the general public, unnamed charitable beneficiaries, and any person having

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a special interest in a charitable trust, in any judicial proceedings within this state or elsewhere, with respect to all matters relating to the administration of the charitable trust, including and without limitation, contract and trust law claims relating to charitable distributions and the exercise of trustee powers. The Attorney General of another state or any other public officer of another state does not have standing to assert such rights or interests.

Section 2. Section 736.0106, Florida Statutes, is amended to read:

736.0106 Common law of trusts; principles of equity.—The common law of trusts and principles of equity supplement this code, except to the extent modified by this code or another law of this state, including, but not limited to, s. 736.0110(3).

Section 3. Subsection (3) of section 736.0405, Florida Statutes, is amended to read:

736.0405 Charitable purposes; enforcement.—

(3) The settlor of a charitable trust, among others, has standing to enforce the trust. This subsection may not be construed to afford standing to the Attorney General of any other state, or another public officer of another state, with respect to any charitable trust having its principal place of administration in this state.

Section 4. For the purpose of incorporating the amendment made by this act to section 736.0110, Florida Statutes, in references thereto, paragraphs (b) and (d) of subsection (2) of section 738.303, Florida Statutes, are reenacted to read:

738.303 Authority of fiduciary.—

(2) A fiduciary may take an action under subsection (1) if

all of the following apply:

(b) The fiduciary sends a notice in a record to the qualified beneficiaries determined under ss. 736.0103 and 736.0110 in the manner required by s. 738.304, describing and proposing to take the action.

(d) At least one member of each class of the qualified beneficiaries determined under ss. 736.0103 and 736.0110, other than the Attorney General, receiving the notice under paragraph (b) is:

1. If an individual, legally competent;

2. If not an individual, in existence; or

3. Represented in the manner provided in s. 738.304(2).

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

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 948
INTRODUCER:	Judiciary Committee and Senator Bradley
SUBJECT:	Flood Disclosures
DATE:	March 31, 2025
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bond	Cibula	JU	**Fav/CS**
2.	Schrader	Imhof	RI	**Favorable**
3.	Bond	Yeatman	RC	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 948 requires a landlord of residential rental property or a mobile home park owner to disclose certain information regarding the property and flood risks to prospective tenants. A tenant who does not receive the disclosures and who incurs substantial losses or damages due to flooding may terminate the lease and is entitled to refund of advance rents paid.

Similarly, the bill requires the developer of a condominium or cooperative to disclose information relating to flood risks in a contract for the sale or long-term rental of a condominium or cooperative unit.

Lastly, the bill slightly expands the flood-related disclosures required under current law that must be provided to a prospective purchaser of residential real property. The bill adds a requirement that the seller disclose whether he or she is aware of any flood damage that occurred during his or her ownership. A seller must also disclose whether he or she has received assistance from *any* source for flood damage to the property, as opposed to just federal sources.

The bill is effective October 1, 2025.

II. Present Situation:

Real Property Sales Disclosure

As to sales of real property, Florida historically followed the legal theory of *Caveat Emptor* ("let the buyer beware"). Under this theory, the seller has no duty to disclose defects in the property and the buyer takes the property "as-is." One court stated that "there is no duty to disclose [a latent defect] when parties are dealing at [arm's] length."[1]

The law changed in 1985 when the Florida Supreme Court ruled that "where the seller of a home knows of facts materially affecting the value of the property which are not readily observable and are not known to the buyer, the seller is under a duty to disclose them to the buyer."[2] This duty applies even if the buyer has agreed to purchase residential property "as-is."[3]

Notably, the disclosure required by case law only applies to facts that are not "readily observable" to the buyer. In the context of flood disclosures, the appellate courts are split as to whether a tendency to flood is readily observable. In one case, the buyers bought a home in the East Everglades area of Miami-Dade County.[4] When they viewed the home during the dry season, the home was acceptable. The sellers did not disclose that the land on which the home sat, but not the home itself, flooded annually during the rainy season, a fact the seller knew from previous experience. The flooding, according to the court, was so severe that "snakes and even alligators (two at least), have gathered at [the] property (presumably on an elevated portion) to escape the waters."[5] The court found that seasonal flooding of the neighborhood was common knowledge and was information that was readily available to the buyers had they exercised "diligent attention."[6] The lawsuit against the seller was dismissed.

In another case, the buyers sued because the seller failed to disclose that the property was in the Coastal Barrier Resource Area (CBRA), and thus ineligible for flood insurance. The trial court found the information regarding the CBRA was publicly available and dismissed the case. The appellate court, however, ruled for the buyers.[7]

The duty to disclose latent defects will generally not apply to an as-is contract for the sale of non-residential property. An appellate court stated Florida courts will continue to apply the doctrine of caveat emptor to an "as-is" contract for non-residential property unless one of the following exceptions apply:

- Where some artifice or trick has been employed to prevent the purchaser from making an independent inquiry;
- Where the purchaser does not have equal opportunity to become apprised of the fact; or
- Where a party undertakes to disclose facts and fails to disclose the whole truth.[8]

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[1] *Banks v. Salina*, 413 So. 2d 851, 852 (Fla. 4th DCA 1982).
[2] *Johnson v. Davis*, 480 So. 2d 625, 629 (Fla. 1985).
[3] *Rayner v. Wise Realty Co. of Tallahassee*, 504 So. 2d 1361 (Fla. 1st DCA 1987).
[4] *Nelson v. Wiggs*, 699 So. 2d 258 (Fla. 3rd DCA 1997).
[5] *Id.* at 259.
[6] *Id.* at 260.
[7] *Newbern v. Mansbach*, 777 So.2d 1044 (Fla. 1st DCA 2001).
[8] *Florida Holding 4800, LLC v. Lauderhill Mall Investment, LLC*, 317 So.3d 121, 124 (Fla. 4th DCA 2021).

Statutory Real Property Sales Disclosure Requirements

Numerous statutes have created specific legal disclosure requirements for a seller of residential real property that clarify the scope of a required disclosure or require additional disclosures. These statutory disclosure requirements relate to the following:

- Associations -- A seller of property in a condominium, cooperative, or homeowners' association must make extensive specific disclosures of information related to the association.[9]
- Coastal -- A sale of a property located partially or totally seaward of the coastal construction control line requires a written disclosure statement at time of contract. The seller also must furnish the buyer with a survey or affidavit showing the control line, although the buyer may waive this requirement.[10]
- Code enforcement -- If a code enforcement proceeding is pending at the time of sale, the seller must disclose it to the buyer.[11]
- Flood -- A seller of real property must disclose whether the seller has filed a flood insurance claim and whether the seller has received federal flood aid.[12]
- Lead paint -- Federal law requires all sellers or landlords of residential real property built before 1978 to give the buyer or tenant a federally produced form disclosure. The contract or lease must allow for a 10-day inspection period.[13]
- Mobile Home Park Lot Rentals – In a park having 26 or more lots, the park owner must furnish a copy of the prospectus. That document discloses information on numerous topics of interest that a mobile home owner might have regarding the park.[14]
- Property tax -- A seller must disclose that a transfer of ownership may lead to an increased property tax assessment related to the Save Our Homes Amendment.[15]
- Radon gas -- A specific disclosure relating to the risks of radon gas must be made in writing in connection with the sale of any building.[16]

[9] See, ss. 718.503 (condominiums), 719.503 (cooperatives), and 720.401 (homeowners' association), F.S.
[10] Section 161.57, F.S. The written disclosure is this statement: "The property being purchased may be subject to coastal erosion and to federal, state, or local regulations that govern coastal property, including the delineation of the coastal construction control line, rigid coastal protection structures, beach nourishment, and the protection of marine turtles. Additional information can be obtained from the Florida Department of Environmental Protection, including whether there are significant erosion conditions associated with the shoreline of the property being purchased."
[11] Section 162.06(5), F.S.
[12] Section 689.302, F.S.
[13] 24 CFR Part 35 and 40 CFR Part 745. See also United States Environmental Protection Agency, Lead-Based Paint Disclosure Rule (updated Jan. 13, 2025), https://www.epa.gov/lead/lead-based-paint-disclosure-rule-section-1018-title-x.
[14] See ss. 723.011-012, F.S.
[15] Section 689.261, F.S. The written disclosure is this statement: "BUYER SHOULD NOT RELY ON THE SELLER'S CURRENT PROPERTY TAXES AS THE AMOUNT OF PROPERTY TAXES THAT THE BUYER MAY BE OBLIGATED TO PAY IN THE YEAR SUBSEQUENT TO PURCHASE. A CHANGE OF OWNERSHIP OR PROPERTY IMPROVEMENTS TRIGGERS REASSESSMENTS OF THE PROPERTY THAT COULD RESULT IN HIGHER PROPERTY TAXES. IF YOU HAVE ANY QUESTIONS CONCERNING VALUATION, CONTACT THE COUNTY PROPERTY APPRAISER'S OFFICE FOR INFORMATION."
[16] Section 404.056(5), F.S. The disclosure is this statement: "RADON GAS: Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county health department."

- Sewer lines -- A seller must disclose known defects in the property's sanitary sewer lateral line.[17]
- Sinkhole damage -- The seller of real property upon which a sinkhole claim has been made by the seller and paid by the insurer must disclose to the buyer of such property, before the closing, that a claim has been paid and whether the full amount of the proceeds was used to repair the sinkhole damage.[18]
- Subsurface rights -- A seller must provide a prospective purchaser of residential property with a disclosure summary if the seller or an affiliated or related entity has previously severed or retained or will sever or retain any of the subsurface rights or right of entry.[19]

Correspondingly, statutes provide that certain disclosures are not required, including:
- That an occupant is or has been infected with HIV or AIDS.[20]
- That the property was or may have been the site of a homicide, suicide, or other death.[21]

Disclosures Related to Residential Leases

The Florida Residential Landlord and Tenant Act requires that a landlord disclose information regarding the deposit and the landlord's address.[22] The federal lead-based paint disclosure applicable to residential sales also applies to residential leases. The duty to disclose latent defects applicable to sales of real property does not apply to a lease transaction.[23]

III. Effect of Proposed Changes:

Residential Landlord-Tenant Flood Disclosure

The bill creates s. 83.512, F.S., to require a landlord leasing a residential property to provide a prospective tenant with a separate "Flood Disclosure" form. The form is provided in the bill and it:
- Informs the tenant that renter's insurance policies do not include coverage for flood damage;
- Requires the landlord to state whether the landlord knows of any flood damage that has occurred on any portion of the property or in any related structure during the landlord's ownership;
- Requires the landlord to state whether the landlord has filed an insurance claim for flood damage related to the property; and

[17] Section 689.301, F.S.
[18] Section 627.7073(2)(c), F.S.
[19] Section 689.29, F.S. The written disclosure is: "SUBSURFACE RIGHTS HAVE BEEN OR WILL BE SEVERED FROM THE TITLE TO REAL PROPERTY BY CONVEYANCE (DEED) OF THE SUBSURFACE RIGHTS FROM THE SELLER OR AN AFFILIATED OR RELATED ENTITY OR BY RESERVATION OF THE SUBSURFACE RIGHTS BY THE SELLER OR AN AFFILIATED OR RELATED ENTITY. WHEN SUBSURFACE RIGHTS ARE SEVERED FROM THE PROPERTY, THE OWNER OF THOSE RIGHTS MAY HAVE THE PERPETUAL RIGHT TO DRILL, MINE, EXPLORE, OR REMOVE ANY OF THE SUBSURFACE RESOURCES ON OR FROM THE PROPERTY EITHER DIRECTLY FROM THE SURFACE OF THE PROPERTY OR FROM A NEARBY LOCATION. SUBSURFACE RIGHTS MAY HAVE A MONETARY VALUE."
[20] Section 689.25(1)(a), F.S.
[21] Section 689.25(1)(b), F.S.
[22] Sections 83.49 and 83.50, F.S.
[23] *Rost Invs., LLC v. Cameron*, 302 So. 3d 445, 451 (Fla. 2nd DCA 2020); *rev. denied*, 2021 WL 1402224.

- Requires the landlord to state whether the landlord has received assistance for flood damage to the property from the Federal Emergency Management Agency or other entities.

Note that the disclosure form, like the current disclosure form applicable to residential sales in s. 689.302, F.S., does not require detailed answers. The questions are all in the form of a "yes/no" reply without further detail.

The disclosure form required by the bill also defines "flooding" to mean "a general or temporary condition of partial or complete inundation of the property caused by . . . the overflow of inland or tidal waters; the unusual and rapid accumulation of runoff or surface waters from any established water source, such as a river, stream, or drainage ditch; or sustained periods of standing water resulting from rainfall." This definition is the same as in the disclosure form required by current law for residential real estate sales.[24]

The bill allows a tenant, where the landlord has failed to provide such disclosure and such tenant suffers a substantial loss or damage due to flooding, to terminate the lease no more than 30 days after the date of the flood loss or damage.[25] In such event, the landlord must refund the tenant all rent or other amounts paid in advance under the rental agreement for any period after the effective date of the termination of the rental agreement. However, such termination does not alleviate the tenant's obligation to pay delinquent or unpaid rents due at the time of termination.

Residential Mobile Home Park Lot Leases

The bill amends s. 723.011, F.S., to require a mobile home park owner leasing a residential mobile home park lot to provide a prospective lessee with a separate "Flood Disclosure" form. The form is provided in the bill, and it:

- Informs the mobile home owner that renter's insurance policies do not include coverage for flood damage;
- Requires the mobile home park owner to state whether the park owner knows of any flood damage that has occurred on any portion of the property or in any related structure during the park owner's ownership;
- Requires the mobile home park owner to state whether the park owner has filed an insurance claim for flood damage related to the property; and
- Requires the mobile home park owner to state whether the park owner has received assistance for flood damage to the property.

The disclosure form, like the current disclosure form applicable to residential sales, does not require detailed answers. The questions are all in the form of a "yes/no" reply with no further detail.

The disclosure form required by the bill also defines "flooding" to mean "a general or temporary condition of partial or complete inundation of the property caused by . . . the overflow of inland or tidal waters; the unusual and rapid accumulation of runoff or surface waters from any

[24] Section 689.302, F.S.

[25] The bill defines "substantial loss or damage" as the total cost of repairs to or replacement of the personal property is 50 percent or more of the personal property's market value on the date the flooding occurred.

established water source, such as a river, stream, or drainage ditch; or sustained periods of standing water resulting from rainfall." This definition is the same as in the disclosure form required by current law for residential real estate sales.[26]

The bill allows a tenant, where the owner has failed to provide such disclosure and such tenant suffers a substantial loss or damage due to flooding, to terminate the lease no more than 30 days after the date of the flood loss or damage.[27] In such event, the owner must refund the tenant all rent or other amounts paid in advance under the rental agreement for any period after the effective date of the termination of the rental agreement. However, such termination does not alleviate the tenant's obligation to pay delinquent or unpaid rents (or other sums due to the owner) due at the time of termination.

Condominium and Cooperative Flood Disclosure

The bill amends ss. 718.503 and 719.503, F.S., to require a developer of a condominium or cooperative, respectively, to include flood disclosures in sales contracts and in long-term rental agreements (defined as an unexpired term of more than 5 years). Specifically, the contract or agreement must:

- Contain a statement that informs the buyer or renter that homeowners' insurance policies do not include coverage for flood damage;
- Disclose whether the developer has any knowledge of flooding that has damaged the property or structures on the property during their ownership;
- Disclose whether the developer has filed an insurance claim for flood damage related to the property or the common elements; and
- Disclose whether the developer has received assistance for flood damage to the property or the common elements from the Federal Emergency Management Agency or other entities.

Consistent with the similar flood disclosure form in current law for residential real estate sales and with the other forms created by this bill for residential rental properties, the required contract language also defines "flooding" to mean "a general or temporary condition of partial or complete inundation of the property caused by . . . the overflow of inland or tidal waters; the unusual and rapid accumulation of runoff or surface waters from any established water source, such as a river, stream, or drainage ditch; or sustained periods of standing water resulting from rainfall."

In a resale of a condominium or cooperative unit, the general flood disclosure form at s. 689.302, F.S., applies.

Flood Disclosure Form in Current Law

The bill amends the flood disclosure form in current law at s. 689.302, F.S., applicable to all sales of residential real property, to expand its scope. Currently, the form asks whether the seller has received any federal flood-related assistance. The bill deletes the limiting word "federal,"

[26] Section 689.302, F.S.

[27] The bill defines "substantial loss or damage" as the total cost of repairs to or replacement of the personal property is 50 percent or more of the personal property's market value on the date the flooding occurred

which has the effect of expanding the scope of the disclosure to include whether the seller has received state, local, or private flood-related assistance. It remains as a "yes/no" question without further detail.

The bill also adds to the standard form to include disclosure of whether the seller has knowledge of any flooding that has damaged any portion of the property or any structure on the property during the seller's ownership of the property.

Effective Date

The bill is effective October 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The new and revised disclosure requirements provided in the bill may add administrative costs to a covered transaction. In addition, these new and revised requirements may increase the potential for lawsuits (and damages) where a person required to make such disclosures does not do so.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 689.302, 718.503, 719.503 and 723.011.
This bill creates section 83.512 of the Florida Statutes.

IX. Additional Information:

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

CS by Judiciary on March 12, 2025:
The CS adds a disclosure of past flood damage to the disclosure form applicable to real estate sales; and adds matching flood disclosures to cooperative law and mobile home park tenancy law, respectively.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate . House

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The Committee on Rules (Bradley) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Section 83.512, Florida Statutes, is created to read:

83.512 Disclosure of flood risks to prospective tenant of residential real property.—

(1) A landlord must complete and provide a flood disclosure to a prospective tenant of residential real property at or before the execution of a rental agreement for a term of 1 year

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or longer. The flood disclosure must be in a separate document. The flood disclosure must be made in substantially the following form:

FLOOD DISCLOSURE

Flood Insurance: Renters' insurance policies do not include coverage for damage resulting from floods. Tenant is encouraged to discuss the need to purchase separate flood insurance coverage with Tenant's insurance agent.

1. Landlord has .... has no .... knowledge of any flooding that has damaged the dwelling unit during Landlord's ownership of the dwelling unit.

2. Landlord has .... has not .... filed a claim with an insurance provider relating to flood damage in the dwelling unit, including, but not limited to, a claim with the National Flood Insurance Program.

3. Landlord has .... has not .... received assistance for flood damage to the dwelling unit, including, but not limited to, assistance from the Federal Emergency Management Agency.

4. For the purposes of this disclosure, the term "flooding" means a general or temporary condition of partial or complete inundation of the dwelling unit caused by any of the following:

a. The overflow of inland or tidal waters.

b. The unusual and rapid accumulation of runoff or surface waters from any established water source, such as a river, stream, or drainage ditch.

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c. Sustained periods of standing water resulting from rainfall.

(2) If a landlord violates this section and a tenant suffers a substantial loss or damage to the tenant's personal property as a result of flooding, the tenant may terminate the rental agreement by giving a written notice of termination to the landlord no later than 30 days after the date of the damage or loss. Termination of a rental agreement under this section is effective upon the tenant surrendering possession of the dwelling unit. For the purpose of this section, the term "substantial loss or damage" means the total cost of repairs to or replacement of the personal property is 50 percent or more of the personal property's market value on the date the flooding occurred.

(3) A landlord shall refund the tenant all rent or other amounts paid in advance under the rental agreement for any period after the effective date of the termination of the rental agreement.

(4) This section does not affect a tenant's liability for delinquent, unpaid rent or other sums owed to the landlord before the date the rental agreement was terminated by the tenant under this section.

Section 2. Section 689.302, Florida Statutes, is amended to read:

689.302 Disclosure of flood risks to prospective purchaser.—A seller must complete and provide a flood disclosure to a purchaser of residential real property at or before the time the sales contract is executed. The flood disclosure must

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be made in the following form:

FLOOD DISCLOSURE

Flood Insurance: Homeowners' insurance policies do not include coverage for damage resulting from floods. Buyer is encouraged to discuss the need to purchase separate flood insurance coverage with Buyer's insurance agent.

(1) Seller has ☐ has no ☐ knowledge of any flooding that has damaged the property during Seller's ownership of the property.

(2) Seller has ☐ has not ☐ filed a claim with an insurance provider relating to flood damage on the property, including, but not limited to, a claim with the National Flood Insurance Program.

(3) ~~(2)~~ Seller has ☐ has not ☐ received ~~federal~~ assistance for flood damage to the property, including, but not limited to, assistance from the Federal Emergency Management Agency.

(4) ~~(3)~~ For the purposes of this disclosure, the term "flooding" means a general or temporary condition of partial or complete inundation of the property caused by any of the following:

(a) The overflow of inland or tidal waters.

(b) The unusual and rapid accumulation of runoff or surface waters from any established water source, such as a river, stream, or drainage ditch.

(c) Sustained periods of standing water resulting from rainfall.

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Section 3. Paragraph (a) of subsection (1) of section 718.503, Florida Statutes, is amended to read:

718.503 Developer disclosure prior to sale; nondeveloper unit owner disclosure prior to sale; voidability.—

(1) DEVELOPER DISCLOSURE.—

(a) *Contents of contracts.*—Any contract for the sale of a residential unit or a lease thereof for an unexpired term of more than 5 years shall:

1. Contain the following legend in conspicuous type:

THIS AGREEMENT IS VOIDABLE BY BUYER BY DELIVERING WRITTEN NOTICE OF THE BUYER'S INTENTION TO CANCEL WITHIN 15 DAYS AFTER THE DATE OF EXECUTION OF THIS AGREEMENT BY THE BUYER, AND RECEIPT BY BUYER OF ALL OF THE ITEMS REQUIRED TO BE DELIVERED TO HIM OR HER BY THE DEVELOPER UNDER SECTION 718.503, FLORIDA STATUTES. THIS AGREEMENT IS ALSO VOIDABLE BY BUYER BY DELIVERING WRITTEN NOTICE OF THE BUYER'S INTENTION TO CANCEL WITHIN 15 DAYS AFTER THE DATE OF RECEIPT FROM THE DEVELOPER OF ANY AMENDMENT WHICH MATERIALLY ALTERS OR MODIFIES THE OFFERING IN A MANNER THAT IS ADVERSE TO THE BUYER. ANY PURPORTED WAIVER OF THESE VOIDABILITY RIGHTS SHALL BE OF NO EFFECT. BUYER MAY EXTEND THE TIME FOR CLOSING FOR A PERIOD OF NOT MORE THAN 15 DAYS AFTER THE BUYER HAS RECEIVED ALL OF THE ITEMS REQUIRED. BUYER'S RIGHT TO VOID THIS AGREEMENT SHALL TERMINATE AT CLOSING. FIGURES CONTAINED IN ANY BUDGET DELIVERED TO THE BUYER PREPARED IN ACCORDANCE WITH THE

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CONDOMINIUM ACT ARE ESTIMATES ONLY AND REPRESENT AN APPROXIMATION OF FUTURE EXPENSES BASED ON FACTS AND CIRCUMSTANCES EXISTING AT THE TIME OF THE PREPARATION OF THE BUDGET BY THE DEVELOPER. ACTUAL COSTS OF SUCH ITEMS MAY EXCEED THE ESTIMATED COSTS. SUCH CHANGES IN COST DO NOT CONSTITUTE MATERIAL ADVERSE CHANGES IN THE OFFERING.

2. Contain the following caveat in conspicuous type on the first page of the contract:

ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY STATING THE REPRESENTATIONS OF THE DEVELOPER. FOR CORRECT REPRESENTATIONS, REFERENCE SHOULD BE MADE TO THIS CONTRACT AND THE DOCUMENTS REQUIRED BY SECTION 718.503, FLORIDA STATUTES, TO BE FURNISHED BY A DEVELOPER TO A BUYER OR LESSEE.

3. If the unit has been occupied by someone other than the buyer, contain a statement that the unit has been occupied.

4. If the contract is for the sale or transfer of a unit subject to a lease, include as an exhibit a copy of the executed lease and shall contain within the text in conspicuous type: "THE UNIT IS SUBJECT TO A LEASE (OR SUBLEASE)."

5. If the contract is for the lease of a unit for a term of 5 years or more, include as an exhibit a copy of the proposed lease.

6. If the contract is for the sale or lease of a unit that is subject to a lien for rent payable under a lease of a


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recreational facility or other commonly used facility, contain within the text the following statement in conspicuous type:

THIS CONTRACT IS FOR THE TRANSFER OF A UNIT THAT IS SUBJECT TO A LIEN FOR RENT PAYABLE UNDER A LEASE OF COMMONLY USED FACILITIES. FAILURE TO PAY RENT MAY RESULT IN FORECLOSURE OF THE LIEN.

7. State the name and address of the escrow agent required by s. 718.202 and state that the purchaser may obtain a receipt for his or her deposit from the escrow agent upon request.

8. If the contract is for the sale or transfer of a unit in a condominium in which timeshare estates have been or may be created, contain within the text in conspicuous type: "UNITS IN THIS CONDOMINIUM ARE SUBJECT TO TIMESHARE ESTATES." The contract for the sale of a fee interest in a timeshare estate shall also contain, in conspicuous type, the following:

FOR THE PURPOSE OF AD VALOREM TAXES OR SPECIAL ASSESSMENTS LEVIED BY TAXING AUTHORITIES AGAINST A FEE INTEREST IN A TIMESHARE ESTATE, THE MANAGING ENTITY IS GENERALLY CONSIDERED THE TAXPAYER UNDER FLORIDA LAW. YOU HAVE THE RIGHT TO CHALLENGE AN ASSESSMENT BY A TAXING AUTHORITY RELATING TO YOUR TIMESHARE ESTATE PURSUANT TO THE PROVISIONS OF CHAPTER 194, FLORIDA STATUTES.

9. Contain within the text the following statement in conspicuous type:

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HOMEOWNERS' INSURANCE POLICIES DO NOT INCLUDE COVERAGE FOR DAMAGE RESULTING FROM FLOODING. BUYER IS ENCOURAGED TO DISCUSS THE NEED TO PURCHASE SEPARATE FLOOD INSURANCE COVERAGE WITH BUYER'S INSURANCE AGENT.

DEVELOPER HAS .... HAS NO .... KNOWLEDGE OF ANY FLOODING THAT HAS DAMAGED THE PROPERTY DURING DEVELOPER'S OWNERSHIP OF THE PROPERTY.

DEVELOPER HAS .... HAS NOT .... FILED A CLAIM WITH AN INSURANCE PROVIDER RELATING TO FLOOD DAMAGE ON THE PROPERTY OR COMMON ELEMENTS, INCLUDING, BUT NOT LIMITED TO, A CLAIM WITH THE NATIONAL FLOOD INSURANCE PROGRAM.

DEVELOPER HAS .... HAS NOT .... RECEIVED ASSISTANCE FOR FLOOD DAMAGE TO THE PROPERTY OR COMMON ELEMENTS, INCLUDING, BUT NOT LIMITED TO, ASSISTANCE FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY.

FOR THE PURPOSES OF THIS DISCLOSURE, THE TERM "FLOODING" MEANS A GENERAL OR TEMPORARY CONDITION OF PARTIAL OR COMPLETE INUNDATION OF THE PROPERTY OR COMMON ELEMENTS CAUSED BY THE OVERFLOW OF INLAND OR TIDAL WATERS; THE UNUSUAL AND RAPID ACCUMULATION OF RUNOFF OR SURFACE WATERS FROM ANY ESTABLISHED WATER SOURCE, SUCH AS A RIVER, STREAM, OR DRAINAGE DITCH; OR SUSTAINED PERIODS OF STANDING WATER RESULTING FROM

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RAINFALL.

Section 4. Paragraph (a) of subsection (1) of section 719.503, Florida Statutes, is amended to read:

719.503 Disclosure prior to sale.—

(1) DEVELOPER DISCLOSURE.—

(a) *Contents of contracts.*—Any contracts for the sale of a unit or a lease thereof for an unexpired term of more than 5 years shall contain:

1. The following legend in conspicuous type:

THIS AGREEMENT IS VOIDABLE BY BUYER BY DELIVERING WRITTEN NOTICE OF THE BUYER'S INTENTION TO CANCEL WITHIN 15 DAYS AFTER THE DATE OF EXECUTION OF THIS AGREEMENT BY THE BUYER, AND RECEIPT BY BUYER OF ALL OF THE ITEMS REQUIRED TO BE DELIVERED TO HIM OR HER BY THE DEVELOPER UNDER SECTION 719.503, FLORIDA STATUTES. THIS AGREEMENT IS ALSO VOIDABLE BY BUYER BY DELIVERING WRITTEN NOTICE OF THE BUYER'S INTENTION TO CANCEL WITHIN 15 DAYS AFTER THE DATE OF RECEIPT FROM THE DEVELOPER OF ANY AMENDMENT WHICH MATERIALLY ALTERS OR MODIFIES THE OFFERING IN A MANNER THAT IS ADVERSE TO THE BUYER. ANY PURPORTED WAIVER OF THESE VOIDABILITY RIGHTS SHALL BE OF NO EFFECT. BUYER MAY EXTEND THE TIME FOR CLOSING FOR A PERIOD OF NOT MORE THAN 15 DAYS AFTER THE BUYER HAS RECEIVED ALL OF THE ITEMS REQUIRED. BUYER'S RIGHT TO VOID THIS AGREEMENT SHALL TERMINATE AT CLOSING. FIGURES CONTAINED IN ANY BUDGET DELIVERED TO THE BUYER PREPARED IN ACCORDANCE WITH THE

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COOPERATIVE ACT ARE ESTIMATES ONLY AND REPRESENT AN APPROXIMATION OF FUTURE EXPENSES BASED ON FACTS AND CIRCUMSTANCES EXISTING AT THE TIME OF THE PREPARATION OF THE BUDGET BY THE DEVELOPER. ACTUAL COSTS OF SUCH ITEMS MAY EXCEED THE ESTIMATED COSTS. SUCH CHANGES IN COST DO NOT CONSTITUTE MATERIAL ADVERSE CHANGES IN THE OFFERING.

2. The following caveat in conspicuous type shall be placed upon the first page of the contract:

ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY STATING THE REPRESENTATIONS OF THE DEVELOPER. FOR CORRECT REPRESENTATIONS, REFERENCE SHOULD BE MADE TO THIS CONTRACT AND THE DOCUMENTS REQUIRED BY SECTION 719.503, FLORIDA STATUTES, TO BE FURNISHED BY A DEVELOPER TO A BUYER OR LESSEE.

3. If the unit has been occupied by someone other than the buyer, a statement that the unit has been occupied.

4. If the contract is for the sale or transfer of a unit subject to a lease, the contract shall include as an exhibit a copy of the executed lease and shall contain within the text in conspicuous type: "THE UNIT IS SUBJECT TO A LEASE (OR SUBLEASE)."

5. If the contract is for the lease of a unit for a term of 5 years or more, the contract shall include as an exhibit a copy of the proposed lease.

6. If the contract is for the sale or lease of a unit that

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is subject to a lien for rent payable under a lease of a recreational facility or other common areas, the contract shall contain within the text the following statement in conspicuous type: "THIS CONTRACT IS FOR THE TRANSFER OF A UNIT THAT IS SUBJECT TO A LIEN FOR RENT PAYABLE UNDER A LEASE OF COMMON AREAS. FAILURE TO PAY RENT MAY RESULT IN FORECLOSURE OF THE LIEN."

7. The contract shall state the name and address of the escrow agent required by s. 719.202 and shall state that the purchaser may obtain a receipt for his or her deposit from the escrow agent, upon request.

8. If the contract is for the sale or transfer of a unit in a cooperative in which timeshare estates have been or may be created, the following text in conspicuous type: "UNITS IN THIS COOPERATIVE ARE SUBJECT TO TIMESHARE ESTATES." The contract for the sale of a timeshare estate must also contain, in conspicuous type, the following:

FOR THE PURPOSE OF AD VALOREM TAXES OR SPECIAL ASSESSMENTS LEVIED BY TAXING AUTHORITIES AGAINST A TIMESHARE ESTATE, THE MANAGING ENTITY IS GENERALLY CONSIDERED THE TAXPAYER UNDER FLORIDA LAW. YOU HAVE THE RIGHT TO CHALLENGE AN ASSESSMENT BY A TAXING AUTHORITY RELATING TO YOUR TIMESHARE ESTATE PURSUANT TO THE PROVISIONS OF CHAPTER 194, FLORIDA STATUTES.

9. Contain within the text the following statement in conspicuous type:

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HOMEOWNERS' INSURANCE POLICIES DO NOT INCLUDE COVERAGE FOR DAMAGE RESULTING FROM FLOODING. BUYER IS ENCOURAGED TO DISCUSS THE NEED TO PURCHASE SEPARATE FLOOD INSURANCE COVERAGE WITH BUYER'S INSURANCE AGENT.

DEVELOPER HAS .... HAS NO .... KNOWLEDGE OF ANY FLOODING THAT HAS DAMAGED THE PROPERTY DURING DEVELOPER'S OWNERSHIP OF THE PROPERTY.

DEVELOPER HAS .... HAS NOT .... FILED A CLAIM WITH AN INSURANCE PROVIDER RELATING TO FLOOD DAMAGE ON THE PROPERTY OR COMMON ELEMENTS, INCLUDING, BUT NOT LIMITED TO, A CLAIM WITH THE NATIONAL FLOOD INSURANCE PROGRAM.

DEVELOPER HAS .... HAS NOT .... RECEIVED ASSISTANCE FOR FLOOD DAMAGE TO THE PROPERTY OR COMMON ELEMENTS, INCLUDING, BUT NOT LIMITED TO, ASSISTANCE FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY.

FOR THE PURPOSES OF THIS DISCLOSURE, THE TERM "FLOODING" MEANS A GENERAL OR TEMPORARY CONDITION OF PARTIAL OR COMPLETE INUNDATION OF THE PROPERTY OR COMMON ELEMENTS CAUSED BY THE OVERFLOW OF INLAND OR TIDAL WATERS; THE UNUSUAL AND RAPID ACCUMULATION OF RUNOFF OR SURFACE WATERS FROM ANY ESTABLISHED WATER SOURCE, SUCH AS A RIVER, STREAM, OR DRAINAGE DITCH; OR SUSTAINED PERIODS OF STANDING WATER RESULTING FROM RAINFALL.

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Section 5. Subsection (6) is added to section 723.011, Florida Statutes, to read:

723.011 Disclosure prior to rental of a mobile home lot; prospectus, filing, approval.—

(6)(a) A mobile home park owner must complete and provide a flood disclosure to a prospective lessee of a mobile home lot. Delivery must be made prior to execution of the lot rental agreement or at the time of occupancy, whichever occurs first. The flood disclosure must be in a separate document. The flood disclosure must be made in substantially the following form:

FLOOD DISCLOSURE

Flood Insurance: Homeowners' and renters' insurance policies do not include coverage for damage resulting from floods. You are encouraged to discuss the need to purchase separate flood insurance coverage your insurance agent.

1. The park owner has .... has no .... knowledge of any flooding that has damaged the property during park owner's ownership of the property.

2. The park owner has .... has not .... filed a claim with an insurance provider relating to flood damage on the property, including, but not limited to, a claim with the National Flood Insurance Program.

3. The park owner has .... has not .... received assistance for flood damage to the property, including, but not limited to, assistance from the Federal Emergency Management Agency.


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4. For the purposes of this disclosure, the term "flooding" means a general or temporary condition of partial or complete inundation of the property caused by any of the following:

a. The overflow of inland or tidal waters.

b. The unusual and rapid accumulation of runoff or surface waters from any established water source, such as a river, stream, or drainage ditch.

c. Sustained periods of standing water resulting from rainfall.

(b) If a park owner violates this section and a lessee suffers a substantial loss or damage to the lessee's mobile home or personal property as a result of flooding, the lessee may terminate the rental agreement by giving a written notice of termination to the park owner no later than 30 days after the date of the damage or loss. Termination of a rental agreement under this section is effective when the requirements of s. 723.023(5) are met. For the purpose of this paragraph, the term "substantial loss or damage" means the total cost of repairs to or replacement of the mobile home and personal property is 50 percent or more of the mobile home and personal property's market value on the date the flooding occurred.

(c) A park owner shall refund the lessee all rent or other amounts paid in advance under the rental agreement for any period after the effective date of the termination of the rental agreement.

(d) This subsection does not affect a lessee's liability for delinquent, unpaid rent or other sums owed to the park owner

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before the date the rental agreement was terminated by the lessee under this subsection.

Section 6. This act shall take effect October 1, 2025.

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

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to flood disclosures; creating s. 83.512, F.S.; requiring a landlord of residential real property to provide specified information to a prospective tenant at or before the time the rental agreement is executed; specifying how such information must be disclosed; defining the term "flooding"; providing that if a landlord fails to disclose flood information truthfully and a tenant suffers substantial loss or damage, the tenant may terminate the rental agreement by giving a written notice of termination to the landlord within a specified timeframe; defining the term "substantial loss"; requiring a landlord to refund the tenant all amounts paid in advance for any period after the effective date of the termination of the rental agreement; providing that a tenant is still liable for any sum owed to the landlord before the termination of the rental agreement; amending s. 689.302, F.S.; revising the flood information that must be disclosed to prospective purchasers of residential real property;


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amending s. 718.503, F.S.; requiring a developer of a residential condominium unit to provide specified information to a prospective purchaser at or before the time the sales contract is executed; specifying how such information must be disclosed; defining the term "flooding"; amending s. 719.503, F.S.; requiring a developer of a residential condominium unit to provide specified information to a prospective purchaser at or before the time the sales contract is executed; specifying how such information must be disclosed; defining the term "flooding"; amending s. 723.011, F.S.; requiring a park owner of a mobile home park to provide specified information to a prospective lessee at or before the time the rental agreement is executed; specifying how such information must be disclosed; defining the term "flooding"; providing that if a park owner fails to disclose flood information truthfully and a lessee suffers substantial loss or damage, the lessee may terminate the rental agreement by giving a written notice of termination to the park owner within a specified timeframe; specifying when the termination of a rental agreement is deemed effective; defining the term "substantial loss"; requiring a park owner to refund the lessee all amounts paid in advance for any period after the effective date of the termination of the rental agreement; providing that a lessee is still liable for any sum owed to the park owner before the termination of the rental agreement; providing an

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effective date.

By the Committee on Judiciary; and Senator Bradley

590-02311-25 2025948c1

A bill to be entitled

An act relating to flood disclosures; creating s. 83.512, F.S.; requiring a landlord of residential real property to provide specified information to a prospective tenant at or before the time the rental agreement is executed; specifying how such information must be disclosed; defining the term "flooding"; providing that if a landlord fails to disclose flood information truthfully and a tenant suffers substantial loss or damage, the tenant may terminate the rental agreement by giving a written notice of termination to the landlord within a specified timeframe; defining the term "substantial loss"; requiring a landlord to refund the tenant all amounts paid in advance for any period after the effective date of the termination of the rental agreement; providing that a tenant is still liable for any sum owed to the landlord before the termination of the rental agreement; amending s. 689.302, F.S.; revising the flood information that must be disclosed to prospective purchasers of residential real property; amending s. 718.503, F.S.; requiring a developer of a residential condominium unit to provide specified information to a prospective purchaser at or before the time the sales contract is executed; specifying how such information must be disclosed; defining the term "flooding"; amending s. 719.503, F.S.; requiring a developer of a residential condominium unit to provide specified information to a prospective

590-02311-25 2025948c1

purchaser at or before the time the sales contract is executed; specifying how such information must be disclosed; defining the term "flooding"; amending s. 723.011, F.S.; requiring a park owner of a mobile home park to provide specified information to a prospective lessee at or before the time the rental agreement is executed; specifying how such information must be disclosed; defining the term "flooding"; providing that if a park owner fails to disclose flood information truthfully and a lessee suffers substantial loss or damage, the lessee may terminate the rental agreement by giving a written notice of termination to the park owner within a specified timeframe; defining the term "substantial loss"; requiring a park owner to refund the lessee all amounts paid in advance for any period after the effective date of the termination of the rental agreement; providing that a lessee is still liable for any sum owed to the park owner before the termination of the rental agreement; providing an effective date.

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

Section 1. Section 83.512, Florida Statutes, is created to read:

83.512 Disclosure of flood risks to prospective tenant of residential real property.—

(1) A landlord must complete and provide a flood disclosure to a prospective tenant of residential real property at or

before the execution of a rental agreement for a term of 1 year or longer. The flood disclosure must be in a separate document. The flood disclosure must be made in substantially the following form:

FLOOD DISCLOSURE

Flood Insurance: Renters' insurance policies do not include coverage for damage resulting from floods. Tenant is encouraged to discuss the need to purchase separate flood insurance coverage with Tenant's insurance agent.

1. Landlord has .... has no .... knowledge of any flooding that has damaged any portion of the property or any structure on the property during Landlord's ownership of the property.

2. Landlord has .... has not .... filed a claim with an insurance provider relating to flood damage on the property, including, but not limited to, a claim with the National Flood Insurance Program.

3. Landlord has .... has not .... received assistance for flood damage to the property, including, but not limited to, assistance from the Federal Emergency Management Agency.

4. For the purposes of this disclosure, the term "flooding" means a general or temporary condition of partial or complete inundation of the property caused by any of the following:

a. The overflow of inland or tidal waters.

b. The unusual and rapid accumulation of runoff

or surface waters from any established water source, such as a river, stream, or drainage ditch.

c. Sustained periods of standing water resulting from rainfall.

(2) If a landlord violates this section and a tenant suffers a substantial loss or damage to the tenant's personal property as a result of flooding, the tenant may terminate the rental agreement by giving a written notice of termination to the landlord no later than 30 days after the date of the damage or loss. Termination of a rental agreement under this section is effective upon the tenant surrendering possession of the property. For the purpose of this section, the term "substantial loss or damage" means the total cost of repairs to or replacement of the personal property is 50 percent or more of the personal property's market value on the date the flooding occurred.

(3) A landlord shall refund the tenant all rent or other amounts paid in advance under the rental agreement for any period after the effective date of the termination of the rental agreement.

(4) This section does not affect a tenant's liability for delinquent, unpaid rent or other sums owed to the landlord before the date the rental agreement was terminated by the tenant under this section.

Section 2. Section 689.302, Florida Statutes, is amended to read:

689.302 Disclosure of flood risks to prospective purchaser.—A seller must complete and provide a flood disclosure

to a purchaser of residential real property at or before the time the sales contract is executed. The flood disclosure must be made in the following form:

FLOOD DISCLOSURE

Flood Insurance: Homeowners' insurance policies do not include coverage for damage resulting from floods. Buyer is encouraged to discuss the need to purchase separate flood insurance coverage with Buyer's insurance agent.

(1) Seller has ☐ has no ☐ knowledge of any flooding that has damaged any portion of the property or any structure on the property during Seller's ownership of the property.

(2) Seller has ☐ has not ☐ filed a claim with an insurance provider relating to flood damage on the property, including, but not limited to, a claim with the National Flood Insurance Program.

(3) ~~(2)~~ Seller has ☐ has not ☐ received ~~federal~~ assistance for flood damage to the property, including, but not limited to, assistance from the Federal Emergency Management Agency.

(4) ~~(3)~~ For the purposes of this disclosure, the term "flooding" means a general or temporary condition of partial or complete inundation of the property caused by any of the following:

(a) The overflow of inland or tidal waters.

(b) The unusual and rapid accumulation of runoff or surface waters from any established water source,

such as a river, stream, or drainage ditch.

(c) Sustained periods of standing water resulting from rainfall.

Section 3. Paragraph (a) of subsection (1) of section 718.503, Florida Statutes, is amended to read:

718.503 Developer disclosure prior to sale; nondeveloper unit owner disclosure prior to sale; voidability.—

(1) DEVELOPER DISCLOSURE.—

(a) *Contents of contracts.*—Any contract for the sale of a residential unit or a lease thereof for an unexpired term of more than 5 years shall:

1. Contain the following legend in conspicuous type:

THIS AGREEMENT IS VOIDABLE BY BUYER BY DELIVERING WRITTEN NOTICE OF THE BUYER'S INTENTION TO CANCEL WITHIN 15 DAYS AFTER THE DATE OF EXECUTION OF THIS AGREEMENT BY THE BUYER, AND RECEIPT BY BUYER OF ALL OF THE ITEMS REQUIRED TO BE DELIVERED TO HIM OR HER BY THE DEVELOPER UNDER SECTION 718.503, FLORIDA STATUTES. THIS AGREEMENT IS ALSO VOIDABLE BY BUYER BY DELIVERING WRITTEN NOTICE OF THE BUYER'S INTENTION TO CANCEL WITHIN 15 DAYS AFTER THE DATE OF RECEIPT FROM THE DEVELOPER OF ANY AMENDMENT WHICH MATERIALLY ALTERS OR MODIFIES THE OFFERING IN A MANNER THAT IS ADVERSE TO THE BUYER. ANY PURPORTED WAIVER OF THESE VOIDABILITY RIGHTS SHALL BE OF NO EFFECT. BUYER MAY EXTEND THE TIME FOR CLOSING FOR A PERIOD OF NOT MORE THAN 15 DAYS AFTER THE BUYER HAS RECEIVED ALL OF THE ITEMS

REQUIRED. BUYER'S RIGHT TO VOID THIS AGREEMENT SHALL TERMINATE AT CLOSING. FIGURES CONTAINED IN ANY BUDGET DELIVERED TO THE BUYER PREPARED IN ACCORDANCE WITH THE CONDOMINIUM ACT ARE ESTIMATES ONLY AND REPRESENT AN APPROXIMATION OF FUTURE EXPENSES BASED ON FACTS AND CIRCUMSTANCES EXISTING AT THE TIME OF THE PREPARATION OF THE BUDGET BY THE DEVELOPER. ACTUAL COSTS OF SUCH ITEMS MAY EXCEED THE ESTIMATED COSTS. SUCH CHANGES IN COST DO NOT CONSTITUTE MATERIAL ADVERSE CHANGES IN THE OFFERING.

2. Contain the following caveat in conspicuous type on the first page of the contract:

ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY STATING THE REPRESENTATIONS OF THE DEVELOPER. FOR CORRECT REPRESENTATIONS, REFERENCE SHOULD BE MADE TO THIS CONTRACT AND THE DOCUMENTS REQUIRED BY SECTION 718.503, FLORIDA STATUTES, TO BE FURNISHED BY A DEVELOPER TO A BUYER OR LESSEE.

3. If the unit has been occupied by someone other than the buyer, contain a statement that the unit has been occupied.

4. If the contract is for the sale or transfer of a unit subject to a lease, include as an exhibit a copy of the executed lease and shall contain within the text in conspicuous type: "THE UNIT IS SUBJECT TO A LEASE (OR SUBLEASE)."

5. If the contract is for the lease of a unit for a term of 5 years or more, include as an exhibit a copy of the proposed

lease.

6. If the contract is for the sale or lease of a unit that is subject to a lien for rent payable under a lease of a recreational facility or other commonly used facility, contain within the text the following statement in conspicuous type:

THIS CONTRACT IS FOR THE TRANSFER OF A UNIT THAT IS SUBJECT TO A LIEN FOR RENT PAYABLE UNDER A LEASE OF COMMONLY USED FACILITIES. FAILURE TO PAY RENT MAY RESULT IN FORECLOSURE OF THE LIEN.

7. State the name and address of the escrow agent required by s. 718.202 and state that the purchaser may obtain a receipt for his or her deposit from the escrow agent upon request.

8. If the contract is for the sale or transfer of a unit in a condominium in which timeshare estates have been or may be created, contain within the text in conspicuous type: "UNITS IN THIS CONDOMINIUM ARE SUBJECT TO TIMESHARE ESTATES." The contract for the sale of a fee interest in a timeshare estate shall also contain, in conspicuous type, the following:

FOR THE PURPOSE OF AD VALOREM TAXES OR SPECIAL ASSESSMENTS LEVIED BY TAXING AUTHORITIES AGAINST A FEE INTEREST IN A TIMESHARE ESTATE, THE MANAGING ENTITY IS GENERALLY CONSIDERED THE TAXPAYER UNDER FLORIDA LAW. YOU HAVE THE RIGHT TO CHALLENGE AN ASSESSMENT BY A TAXING AUTHORITY RELATING TO YOUR TIMESHARE ESTATE PURSUANT TO THE PROVISIONS OF CHAPTER 194, FLORIDA STATUTES.

9. Contain within the text the following statement in conspicuous type:

HOMEOWNERS' INSURANCE POLICIES DO NOT INCLUDE COVERAGE FOR DAMAGE RESULTING FROM FLOODING. BUYER IS ENCOURAGED TO DISCUSS THE NEED TO PURCHASE SEPARATE FLOOD INSURANCE COVERAGE WITH BUYER'S INSURANCE AGENT.

DEVELOPER HAS .... HAS NO .... KNOWLEDGE OF ANY FLOODING THAT HAS DAMAGED ANY PORTION OF THE PROPERTY OR ANY STRUCTURE ON THE PROPERTY DURING DEVELOPER'S OWNERSHIP OF THE PROPERTY.

DEVELOPER HAS .... HAS NOT .... FILED A CLAIM WITH AN INSURANCE PROVIDER RELATING TO FLOOD DAMAGE ON THE PROPERTY OR COMMON ELEMENTS, INCLUDING, BUT NOT LIMITED TO, A CLAIM WITH THE NATIONAL FLOOD INSURANCE PROGRAM.

DEVELOPER HAS .... HAS NOT .... RECEIVED ASSISTANCE FOR FLOOD DAMAGE TO THE PROPERTY OR COMMON ELEMENTS, INCLUDING, BUT NOT LIMITED TO, ASSISTANCE FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY.

FOR THE PURPOSES OF THIS DISCLOSURE, THE TERM "FLOODING" MEANS A GENERAL OR TEMPORARY CONDITION OF PARTIAL OR COMPLETE INUNDATION OF THE PROPERTY OR COMMON ELEMENTS CAUSED BY THE OVERFLOW OF INLAND OR

TIDAL WATERS; THE UNUSUAL AND RAPID ACCUMULATION OF RUNOFF OR SURFACE WATERS FROM ANY ESTABLISHED WATER SOURCE, SUCH AS A RIVER, STREAM, OR DRAINAGE DITCH; OR SUSTAINED PERIODS OF STANDING WATER RESULTING FROM RAINFALL.

Section 4. Paragraph (a) of subsection (1) of section 719.503, Florida Statutes, is amended to read:

719.503 Disclosure prior to sale.—

(1) DEVELOPER DISCLOSURE.—

(a) *Contents of contracts.*—Any contracts for the sale of a unit or a lease thereof for an unexpired term of more than 5 years shall contain:

1. The following legend in conspicuous type:

THIS AGREEMENT IS VOIDABLE BY BUYER BY DELIVERING WRITTEN NOTICE OF THE BUYER'S INTENTION TO CANCEL WITHIN 15 DAYS AFTER THE DATE OF EXECUTION OF THIS AGREEMENT BY THE BUYER, AND RECEIPT BY BUYER OF ALL OF THE ITEMS REQUIRED TO BE DELIVERED TO HIM OR HER BY THE DEVELOPER UNDER SECTION 719.503, FLORIDA STATUTES. THIS AGREEMENT IS ALSO VOIDABLE BY BUYER BY DELIVERING WRITTEN NOTICE OF THE BUYER'S INTENTION TO CANCEL WITHIN 15 DAYS AFTER THE DATE OF RECEIPT FROM THE DEVELOPER OF ANY AMENDMENT WHICH MATERIALLY ALTERS OR MODIFIES THE OFFERING IN A MANNER THAT IS ADVERSE TO THE BUYER. ANY PURPORTED WAIVER OF THESE VOIDABILITY RIGHTS SHALL BE OF NO EFFECT. BUYER MAY EXTEND THE TIME FOR CLOSING FOR A PERIOD OF NOT MORE THAN 15 DAYS

AFTER THE BUYER HAS RECEIVED ALL OF THE ITEMS REQUIRED. BUYER'S RIGHT TO VOID THIS AGREEMENT SHALL TERMINATE AT CLOSING. FIGURES CONTAINED IN ANY BUDGET DELIVERED TO THE BUYER PREPARED IN ACCORDANCE WITH THE COOPERATIVE ACT ARE ESTIMATES ONLY AND REPRESENT AN APPROXIMATION OF FUTURE EXPENSES BASED ON FACTS AND CIRCUMSTANCES EXISTING AT THE TIME OF THE PREPARATION OF THE BUDGET BY THE DEVELOPER. ACTUAL COSTS OF SUCH ITEMS MAY EXCEED THE ESTIMATED COSTS. SUCH CHANGES IN COST DO NOT CONSTITUTE MATERIAL ADVERSE CHANGES IN THE OFFERING.

2. The following caveat in conspicuous type shall be placed upon the first page of the contract:

ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY STATING THE REPRESENTATIONS OF THE DEVELOPER. FOR CORRECT REPRESENTATIONS, REFERENCE SHOULD BE MADE TO THIS CONTRACT AND THE DOCUMENTS REQUIRED BY SECTION 719.503, FLORIDA STATUTES, TO BE FURNISHED BY A DEVELOPER TO A BUYER OR LESSEE.

3. If the unit has been occupied by someone other than the buyer, a statement that the unit has been occupied.

4. If the contract is for the sale or transfer of a unit subject to a lease, the contract shall include as an exhibit a copy of the executed lease and shall contain within the text in conspicuous type: "THE UNIT IS SUBJECT TO A LEASE (OR SUBLEASE)."

5. If the contract is for the lease of a unit for a term of 5 years or more, the contract shall include as an exhibit a copy of the proposed lease.

6. If the contract is for the sale or lease of a unit that is subject to a lien for rent payable under a lease of a recreational facility or other common areas, the contract shall contain within the text the following statement in conspicuous type: "THIS CONTRACT IS FOR THE TRANSFER OF A UNIT THAT IS SUBJECT TO A LIEN FOR RENT PAYABLE UNDER A LEASE OF COMMON AREAS. FAILURE TO PAY RENT MAY RESULT IN FORECLOSURE OF THE LIEN."

7. The contract shall state the name and address of the escrow agent required by s. 719.202 and shall state that the purchaser may obtain a receipt for his or her deposit from the escrow agent, upon request.

8. If the contract is for the sale or transfer of a unit in a cooperative in which timeshare estates have been or may be created, the following text in conspicuous type: "UNITS IN THIS COOPERATIVE ARE SUBJECT TO TIMESHARE ESTATES." The contract for the sale of a timeshare estate must also contain, in conspicuous type, the following:

FOR THE PURPOSE OF AD VALOREM TAXES OR SPECIAL ASSESSMENTS LEVIED BY TAXING AUTHORITIES AGAINST A TIMESHARE ESTATE, THE MANAGING ENTITY IS GENERALLY CONSIDERED THE TAXPAYER UNDER FLORIDA LAW. YOU HAVE THE RIGHT TO CHALLENGE AN ASSESSMENT BY A TAXING AUTHORITY RELATING TO YOUR TIMESHARE ESTATE PURSUANT TO THE PROVISIONS OF CHAPTER 194, FLORIDA STATUTES.

9. Contain within the text the following statement in conspicuous type:

HOMEOWNERS' INSURANCE POLICIES DO NOT INCLUDE COVERAGE FOR DAMAGE RESULTING FROM FLOODING. BUYER IS ENCOURAGED TO DISCUSS THE NEED TO PURCHASE SEPARATE FLOOD INSURANCE COVERAGE WITH BUYER'S INSURANCE AGENT.

DEVELOPER HAS .... HAS NO .... KNOWLEDGE OF ANY FLOODING THAT HAS DAMAGED ANY PORTION OF THE PROPERTY OR ANY STRUCTURE ON THE PROPERTY DURING DEVELOPER'S OWNERSHIP OF THE PROPERTY.

DEVELOPER HAS .... HAS NOT .... FILED A CLAIM WITH AN INSURANCE PROVIDER RELATING TO FLOOD DAMAGE ON THE PROPERTY OR COMMON ELEMENTS, INCLUDING, BUT NOT LIMITED TO, A CLAIM WITH THE NATIONAL FLOOD INSURANCE PROGRAM.

DEVELOPER HAS .... HAS NOT .... RECEIVED ASSISTANCE FOR FLOOD DAMAGE TO THE PROPERTY OR COMMON ELEMENTS, INCLUDING, BUT NOT LIMITED TO, ASSISTANCE FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY.

FOR THE PURPOSES OF THIS DISCLOSURE, THE TERM "FLOODING" MEANS A GENERAL OR TEMPORARY CONDITION OF PARTIAL OR COMPLETE INUNDATION OF THE PROPERTY OR COMMON ELEMENTS CAUSED BY THE OVERFLOW OF INLAND OR

TIDAL WATERS; THE UNUSUAL AND RAPID ACCUMULATION OF RUNOFF OR SURFACE WATERS FROM ANY ESTABLISHED WATER SOURCE, SUCH AS A RIVER, STREAM, OR DRAINAGE DITCH; OR SUSTAINED PERIODS OF STANDING WATER RESULTING FROM RAINFALL.

Section 5. Subsection (6) is added to section 723.011, Florida Statutes, to read:

723.011 Disclosure prior to rental of a mobile home lot; prospectus, filing, approval.—

(6)(a) A mobile home park owner must complete and provide a flood disclosure to a prospective lessee of residential real property. Delivery must be made prior to execution of the lot rental agreement or at the time of occupancy, whichever occurs first. The flood disclosure must be in a separate document. The flood disclosure must be made in substantially the following form:

FLOOD DISCLOSURE

Flood Insurance: Homeowners' and renters' insurance policies do not include coverage for damage resulting from floods. You are encouraged to discuss the need to purchase separate flood insurance coverage your insurance agent.

1. The park owner has .... has no .... knowledge of any flooding that has damaged any portion of the property or any structure on the property during park owner's ownership of the property.

2. The park owner has .... has not .... filed a

claim with an insurance provider relating to flood damage on the property, including, but not limited to, a claim with the National Flood Insurance Program.

3. The park owner has .... has not .... received assistance for flood damage to the property, including, but not limited to, assistance from the Federal Emergency Management Agency.

4. For the purposes of this disclosure, the term "flooding" means a general or temporary condition of partial or complete inundation of the property caused by any of the following:

a. The overflow of inland or tidal waters.

b. The unusual and rapid accumulation of runoff or surface waters from any established water source, such as a river, stream, or drainage ditch.

c. Sustained periods of standing water resulting from rainfall.

(b) If a park owner violates this section and a lessee suffers a substantial loss or damage to the lessee's mobile home or personal property as a result of flooding, the lessee may terminate the rental agreement by giving a written notice of termination to the park owner no later than 30 days after the date of the damage or loss. Termination of a rental agreement under this section is effective upon the lessee surrendering possession of the property. For the purpose of this paragraph, the term "substantial loss or damage" means the total cost of repairs to or replacement of the mobile home and personal property is 50 percent or more of the mobile home and personal

property's market value on the date the flooding occurred.

(c) A park owner shall refund the lessee all rent or other amounts paid in advance under the rental agreement for any period after the effective date of the termination of the rental agreement.

(d) This subsection does not affect a lessee's liability for delinquent, unpaid rent or other sums owed to the park owner before the date the rental agreement was terminated by the lessee under this subsection.

Section 6. This act shall take effect October 1, 2025.

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 1058
INTRODUCER:	Governmental Oversight and Accountability Committee and Senator Gruters
SUBJECT:	Gulf of America
DATE:	March 31, 2025
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	White	McVaney	GO	**Fav/CS**
2.	Gray	Elwell	AED	**Favorable**
3.	White	Yeatman	RC	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1058 directs state agencies, district school boards, and charter school governing boards to update, change, or create materials to rename the "Gulf of Mexico" to the "Gulf of America." Each state agency must update its "geographic materials." Instructional materials and additions to library media center collections acquired or adopted by a district school board or charter school on or after July 1, 2025, must reflect the renaming.

The bill will have an indeterminate fiscal impact to state entities and school districts. **See Section V., Fiscal Impact Statement.**

The bill takes effect on July 1, 2025.

II. Present Situation:

Executive Order 14172: Gulf of America

On January 20, 2025, President Donald Trump signed Executive Order 14172, entitled "Restoring Names That Honor American Greatness." In relevant part, the President directed that the "Gulf of Mexico" officially be renamed the "Gulf of America." Additionally, the Executive Order instructs the Secretary of the Interior to take all appropriate actions to rename the "Gulf of Mexico" to the "Gulf of America." The Secretary is directed to update the Geographic Names Information System to reflect such change. The Board on Geographic Names, established by the

Executive Order, provides guidance to ensure all federal references to the Gulf of America, including references included on agency maps, or in contracts and other documents and communications, shall reflect its renaming.

Public School Instructional Materials

Florida Statutes addresses instructional materials for K-12 public education.[1] District school boards have the constitutional duty and responsibility to select and provide instructional materials for all students, including materials in the school or classroom library.[2] Instructional materials are items having intellectual content that by design serve as a major tool for assisting in the instruction of a subject or course[3] and must be consistent with district goals and applicable with state academic standards and course descriptions provide in law.[4]

The districts must provide a sufficient number of student or site licenses or sets of materials that serve as the basis for instruction in the core subject areas of mathematics, language arts, social studies, science, reading and literature to students.[5] Such materials may be made available in bound, unbound, kit, or package form and may consist of hardbacked or softback textbooks, electronic content, consumables, learning laboratories, manipulatives, electronic media, and computer courseware or software.[6]

School boards must also establish and maintain a program of school library media services for all public schools in the district. This includes traveling or circulating libraries that may be needed for proper operation of the district school system[7] A library media center is any collection of books, ebooks, periodicals, or videos maintained and accessible on the site of a school.[8]

The Florida Department of Education (DOE) facilitates the statewide instructional materials adoption process. Expert reviewers chosen by the DOE are provided training on competencies for making valid, culturally sensitive, and objective recommendations regarding the content and rigor of instructional materials prior to the beginning of the review and selection process.[9] Reviewers must objectively evaluate materials with Florida's state-adopted standards in mind.[10] Based on reviewer recommendations, the Commissioner of Education selects and adopts instructional materials for each grade and subject under consideration.[11]

[1] *See* ss. 1006.28-1006.42, F.S. In Florida, charter schools are public schools and a part of Florida's public education program. Section 1002.33, F.S.[2] Section 1006.28(2), F.S.
[2] Section 1006.28(2), F.S.
[3] Section 1006.29(2), F.S.; *see* s. 1006.28(1)(a)2., F.S. (referring the definition of instructional materials to align with s. 1006.29(2), F.S.).
[4] Section 1006.28(2), F.S.
[5] Section 1006.28(1), F.S.
[6] Section 1006.29, F.S.
[7] Section 1006.28(2), F.S.
[8] Section 1006.28(1), F.S.
[9] Section 1006.29, F.S.
[10] Section 1006.31, F.S.
[11] Section 1006.34, F.S.

The term of adoption for instructional materials must be for a five-year period beginning on April 1, following the adoption. The DOE is required to annually publish an official schedule of subject areas to be called for adoption. The schedule is developed to promote balance among the subject areas so that the required expenditure for new instructional materials is approximately the same each year.[12]

The following instructional material adoption schedule is posted on the DOE's website.[13]

Adoption Year	Subject Area	Specifications and Criteria Available	State Adoption Process	Effective Date of Contract April 1-March 31
2024-2025	English Language Arts, **K-12**; Personal Financial Literacy and Money Management, **9-12**; Mathematics Intervention Materials, **K-4** and English Language Arts Intervention Materials, **K-3**	Nov. 2023	April 2024-2025	2025-2030
2025-2026	Career and Technical Education, World Languages, Art, Music, Dance and Health, **K-12**; **6-12** Additional English Language Arts	June 2024	November 2024-December 2025	2026-2031
2026-2027	Mathematics and Computer Science, **K-12**	January 2025	June 2025-July 2026	2027-2032
2027-2028	Social Studies, **K-12**	January 2026	June 2026-July 2027	2028-2033
2028-2029	Science, **K-12**	January 2027	June 2027-July 2028	2029-2034

Purchase of Instructional Materials

On or before July 1 each year, the district school superintendent must certify to the commissioner the estimated allocation of state funds for instructional materials for the ensuing school year. Up to 50 percent of the amount the school district has budgeted for instructional materials may be used to purchase:

- Library and reference books and nonprint materials.
- Other materials having intellectual content which assist in the instruction of a subject course.

[12] Section 1006.36, F.S.
[13] Florida Department of Education, *Florida Instructional Materials Adoption Schedule*, available at https://www.fldoe.org/core/fileparse.php/5574/urlt/AdoptionCycle.pdf (last visited Mar. 14, 2025)

- The repair and renovation of textbooks and library books and replacement of items which were part of previously purchased instructional materials.[14]

III. Effect of Proposed Changes:

This bill creates an unnumbered section of law directing each state agency, as defined in s. 11.45(1), F.S., to update its "geographic materials" to reflect the new federal designation of the "Gulf of Mexico" as the "Gulf of America." Instructional materials and additions to library media center collections adopted or acquired by a district school board or charter school governing board, on or after July 1, 2025, must also reflect this new federal designation.

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, or reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

None identified.

C. Trust Funds Restrictions:

None identified.

D. State Tax or Fee Increases:

None identified.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None identified.

B. Private Sector Impact:

Contracted education service providers and testing groups may need to update their materials and packages to reflect this change.

[14] Section 1006.40, F.S.

C. Government Sector Impact:

The provisions of this bill requiring state agencies to update their materials to reflect the "Gulf of America" has an indeterminate, yet likely insignificant fiscal impact on state agency expenditures. The fiscal impact to school districts is also indeterminate. However, the full impact may not be immediate as the bill specifies the update is required for all materials adopted or acquired on or after July 1, 2025, rather than updating current materials.

VI. Technical Deficiencies:

The term "geographic materials" is undefined and unclear. This term does not otherwise appear in the Florida Statutes.

VII. Related Issues:

None identified.

VIII. Statutes Affected:

This bill creates an undesignated 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 March 11, 2025:

- Defines state agency to align with s. 11.45(1), F.S.;
- Clarifies that the requirement regarding instructional materials and library media center collections applies only to materials adopted or acquired on or after July 1, 2025; and
- Removes section 2, which designated the portion of U.S. 41 between S.R. 60 and U.S. 1 as "Gulf of America Trail."

B. Amendments:

None.

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

585-02290-25 20251058c1

A bill to be entitled

An act relating to the Gulf of America; requiring state agencies to update geographic materials to reflect the new federal designation of the "Gulf of Mexico" as the "Gulf of America"; requiring that specified materials and collections adopted or acquired by district school boards and charter school governing boards on or after a specified date reflect the new federal designation of the "Gulf of Mexico" as the "Gulf of America"; providing an effective date.

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

Section 1. (1) Each state agency as defined in s. 11.45(1), Florida Statutes, shall update its geographic materials to reflect the new federal designation of the "Gulf of Mexico" as the "Gulf of America."

(2) Instructional materials as defined in s. 1006.28(1)(a), Florida Statutes, and library media center collections adopted or acquired on or after July 1, 2025, by a district school board or charter school governing board must reflect the new federal designation of the "Gulf of Mexico" as the "Gulf of America," when applicable.

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

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

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL:	CS/SB 1168
INTRODUCER:	Appropriations Committee on Criminal and Civil Justice and Senator Leek
SUBJECT:	Installation or Use of Tracking Devices or Applications
DATE:	March 31, 2025 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Parker	Stokes	CJ	**Favorable**
2.	Atchley	Harkness	ACJ	**Fav/CS**
3.	Parker	Yeatman	RC	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1168 amends s. 934.425, F.S., to provide that a person who, in furtherance of, or facilitating the commission of, a dangerous crime as defined in s. 907.041(5)(a), F.S.,[1] knowingly installs or places a tracking device or tracking application on another person's property without consent or uses such a device or application to determine a person's location or their property's location or movement without consent, commits a second degree felony.[2]

The bill has a positive indeterminate fiscal impact. See Section V. Fiscal Impact Statement.

The bill takes effect on October 1, 2025.

II. Present Situation:

In recent years, compact tracking devices like Apple AirTags have changed the way that we locate lost items. These devices have also opened avenues for misuse in the area of personal surveillance. Tracking devices and tracking applications can be used to follow the location or

[1] Section 907.041(5)(a), F.S., defines "dangerous crime" to mean any of the following offenses: Arson, Aggravated assault, Aggravated battery, Illegal use of explosives, Child abuse or aggravated child abuse, Abuse of an elderly person or disabled adult, Aircraft piracy, Kidnapping; Homicide, Manslaughter, Sexual battery, Robbery, carjacking, and the remaining offenses listed under this section.

[2] A second degree felony is punishable by a term of imprisonment not exceeding 15 years and a fine of $10,000 as provided in ss. 775.082, 775.083, and 775.084, F.S.

movement of another person, potentially without that person's knowledge or consent. Some applications have legitimate uses, but may be accessed by third parties without the user's consent. Other applications are developed and marketed as surveillance applications, commonly targeting potential customers interested in using the technology to track the movements and communication of another without consent.

Bluetooth trackers like Apple AirTag, Google's Nest tags and Tile devices work by transmitting a signal to nearby phones or tablets, which report the tracker's location for the tracker's owner and display its moves in real time on a map.[3]

Location Tracking Technology

Global Positioning System

The Global Positioning System (GPS) is a space-based radio navigation system, owned by the United States Government and operated by the United States Space Force. GPS consists of three segments, including the:

- Space Segment: A constellation of 31 operational satellites that circle the Earth at an altitude of approximately 11,000 miles every 12 hours;
- Control Segment: Stations on Earth that monitor and maintain the GPS satellites; and
- User Segment: Receivers that process the navigation signals from the GPS satellites and calculate position and time.[4]

Each GPS satellite transmits its position and time at regular intervals and the signals are intercepted by GPS receivers. The receiver is then able to determine its position by calculating how long it took for the signal to reach the receiver. GPS currently provides two levels of service: standard positioning service and precise positioning service. Access to precise positioning service is restricted to the United States Armed Forces, Federal agencies, and select allied armed forces and governments. Standard positioning service is available to all users on a continuous basis, free of any direct charge to users.[5]

GPS is widely used in a variety of applications because its capabilities are accessible using small, inexpensive equipment.[6]

Wi-Fi Positioning

Wi-Fi is a radio-frequency technology for wireless communication that is used by nearly all devices and network infrastructure, including smartphones, computers, Internet of Things

[3] WUFT, *Florida cracking down on cyber stalking with Apple AirTags, other hidden tracking devices*, (April 7, 2024), available at: https://www.wusf.org/politics-issues/2024-04-07/florida-cracking-down-on-cyber-stalking-with-apple-airtags-other-hidden-tracking-devices (last visited March 5, 2025).
[4] NASA, *GPS-What is GPS*, Catherine G. Manning, September 25, 2023, available at: https://www.nasa.gov/directorates/somd/space-communications-navigation-program/gps/ (last visited on March 5, 2025).
[5] *Id*.
[6] Federal Aviation Administration, *Satellite Navigation- Global Positioning System (GPS)*, available at: https://www.faa.gov/about/office_org/headquarters_offices/ato/service_units/techops/navservices/gnss/gps (last visited on March 5, 2025).

devices, routers, and more can be used to transmit data between devices using radio waves.[7] Wi-Fi can be leveraged to detect and track the location of people, devices, and assets, and can be easily activated for indoor positioning with existing Wi-Fi access points. The most commonly used Wi-Fi positioning techniques determine a device's location by using a measure called received signal strength indicator (RSSI). In RSSI applications, multiple existing Wi-Fi access points or Wi-Fi enabled sensors deployed in a fixed position detect transmitting Wi-Fi devices and the received signal strength of a device's signal. The location data collected by the access points or sensors is sent to the central indoor positioning or realtime location system, which analyzes the data to estimate the position of the transmitting device. Alternatively, the signal strength of nearby access points can be used to determine a device's location.[8] Wi-Fi positioning technology is particularly popular in providing location services in indoor spaces where GPS may not work as effectively.

Unlawful Installation of a Tracking Device or Application

Section 934.425, F.S., provides that the installation or placement of a tracking device or tracking application on another person's property without that person's consent; or use of a tracking device or tracking application to determine the location or movement of another person or another person's property without that person's consent is a third degree felony.[9]

A person's consent to be tracked is presumed to be revoked if:
- The consenting person and the person to whom consent was given are lawfully married and one person files a petition for dissolution of marriage from the other;[10] or
- The consenting person or the person to whom consent was given files an injunction for protection against the other person.[11]

The prohibition against installing a tracking device or tracking application does not apply to:
- A law enforcement officer, or any local, state, federal, or military law enforcement agency, that lawfully installs a tracking device or tracking application on another person's property as part of a criminal investigation;[12]
- A parent or legal guardian of a minor child who installs a tracking device or tracking application on the minor child's property if:
  - The parents or legal guardians are lawfully married to each other and are not separated or otherwise living apart, and either parent or legal guardian consents to the installation of the tracking device or tracking application;[13]

[7] Inpixon Indoor Intelligence, *Wi-Fi RTLS, Location Tracking and Positioning, What is Wi-Fi Positioning*, available at: https://www.inpixon.com/technology/standards/wifi (last visited on March 5, 2025).
[8] *Id*.
[9] A third degree felony is punishable by a term of imprisonment of not exceeding 5 years and a fine of $5,000, as provided in ss. 775.082, 775.083, and 775.084, F.S.
[10] Section 934.425(3)(a), F.S.
[11] Section 934.425(3)(b), F.S., references the following injunctions for protection: s. 741.30, F.S., relating to domestic violence; s. 741.315, F.S., relating to foreign protection orders; s. 784.046, F.S., relating to repeat violence, sexual violence, or dating violence; s. 784.048, F.S., relating to stalking.
[12] Section 934.425(4)(a), F.S.
[13] Section 934.425(4)(b)1., F.S.

  - The parent or legal guardian is the sole surviving parent or legal guardian of the minor child;[14]
  - The parent or legal guardian has sole custody of the minor child;[15] or
  - The parents or legal guardians are divorced, separated, or otherwise living apart and both consent to the installation of the tracking device or tracking application.[16]
- A caregiver of an elderly person[17] or disabled adult,[18] if the elderly person or disabled adult's treating physician certifies that the installation of a tracking device or tracking application onto the elderly person or disabled adult's property is necessary to ensure the safety of the elderly person or disabled adult;[19]
- A person acting in good faith on behalf of a business entity for a legitimate business purpose;[20] or
- An owner or lessee of a motor vehicle that installs, or directs the installation of, a tracking device or tracking application on such vehicle during the period of ownership or lease, provided that:[21]
  - The tracking device or tracking application is removed before the vehicle's title is transferred or the vehicle's lease expires;[22]
  - The new owner or lessor of the vehicle consents in writing for the tracking device or tracking application to remain installed;[23] or
  - The owner of the vehicle at the time of the installation of the tracking device or tracking application was the original manufacturer of the vehicle.[24]

III. Effect of Proposed Changes:

This bill amends s. 934.425, F.S., to provide that a person who, in furtherance of, or facilitating the commission of, a dangerous crime as defined in s. 907.041(5)(a), F.S., knowingly installs or places a tracking device or tracking application on another person's property without consent or uses such a device or application to determine a person's location or their property's location or movement without consent, commits a second degree felony.[25]

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[14] Section 934.425(4)(b)2., F.S.
[15] Section 934.425(4)(b)3., F.S.
[16] Section 934.425(4)(b)4., F.S.
[17] Section 825.101(4), F.S., defines "Elderly person" to mean a person 60 years of age or older who is suffering from the infirmities of aging as manifested by advanced age or organic brain damage, or other physical, mental, or emotional dysfunction to the extent that the ability of the person to provide adequately for the person's own care or protection is impaired.
[18] Section 825.101(3), F.S., defines "Disabled adult" to mean a person18 years of age or older who suffers from a condition of physical or mental incapacitation due to a developmental disability, organic brain damage, or mental illness, or who has one or more physical or mental limitations that restrict the person's ability to perform the normal activities of daily living.
[19] Section 934.425(4)(c), F.S.
[20] Section 934.425(4)(d), F.S., This paragraph does not apply to a person engaged in private investigation, as defined in s. 493.6101, F.S., on behalf of another person unless such activities would otherwise be exempt under this subsection if performed by the person engaging the private investigator.
[21] Section 934.425(4)(e), F.S.
[22] Section 934.425(4)(e)1., F.S.
[23] Section 934.425(4)(e)2., F.S.
[24] Section 934.425(4)(e)3., F.S.
[25] A second degree felony is punishable by a term of imprisonment not exceeding 15 years and a fine of $10,000 as provided in ss. 775.082, 775.083, and 775.084, F.S.

Section 907.041(5)(a), F.S., defines "dangerous crime" to mean any of the following:

- Arson;
- Aggravated assault;
- Aggravated battery;
- Illegal use of explosives;
- Child abuse or aggravated child abuse;
- Abuse of an elderly person or disabled adult, or aggravated abuse of an elderly person or disabled adult;
- Aircraft piracy;
- Kidnapping;
- Homicide;
- Manslaughter, including DUI manslaughter and BUI manslaughter;
- Sexual battery;
- Robbery;
- Carjacking;
- Lewd, lascivious, or indecent assault or act upon or in presence of a child under the age of 16 years;
- Sexual activity with a child, who is 12 years of age or older but less than 18 years of age, by or at solicitation of person in familial or custodial authority.
- Burglary of a dwelling;
- Stalking and aggravated stalking;
- Act of domestic violence as defined in s. 741.28, F.S.;
- Home invasion robbery;
- Act of terrorism as defined in s. 775.30, F.S.;
- Manufacturing any substances in violation of chapter 893, F.S.;
- Attempting or conspiring to commit any such crime;
- Human trafficking;
- Trafficking in any controlled substance described in s. 893.135(1)(c)4, F.S.;
- Extortion in violation of s. 836.05, F.S.; and
- Written threats to kill in violation of s. 836.10, F.S.

The bill takes effect on October 1, 2025.

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 Art. VII, s. 18 of the State Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Legislature's Office of Economic and Demographic Research (EDR) and the Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, has determined that the bill may have a positive indeterminate prison bed impact (unquantifiable increase in prison beds) on the Department of Corrections (DOC). The EDR provides the following additional information regarding its estimate:

Under current law, this act is a Level 1, 3rd degree felony regardless of whether or not it is in furtherance of, or facilitates the commission of, a dangerous crime.

- Per the DOC, there were no new commitments to prison under the current Level 1, 3rd degree felony. However, this felony was added last session, and took effect on October 1, 2024.
- Per the FDLE, in FY 22-23, there were 30 arrests under s. 934.425, F.S., 5 guilty/convicted charges, and one adjudication withheld. In FY 23-24, there were 37 arrests, 8 guilty/convicted charges, and 4 adjudications withheld. These were while the offense was still a misdemeanor and before the expanded language for what constitutes this offense went into effect. From October 2024 through February 2025, there were 32 total arrests. When compared to the same time period in FY 23-24, there were 13 arrests, so these numbers seem to be trending up. There have been no guilty/convicted charges or adjudications withheld under the new felony. Of the 32 arrests in the October 2024 through February 2025 time period, 18 (56.3 percent) fit the criteria for the Level 4, 2nd degree felony, mostly due to stalking being one of the additional offenses the people were arrested for, which is defined as a dangerous crime under s. 907.041(5)(a), F.S.

- Per the DOC, in FY 23-24, the incarceration rate for a Level 4, 2nd degree felony was 29.5 percent.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 934.425 of the Florida Statutes.

IX. Additional Information:

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

CS by Appropriations Committee on Criminal Justice on March 24, 2025:
The committee substitute clarifies that the bill applies to a person who unlawfully installs, places, or uses a tracking device or tracking application to commit a dangerous crime or to facilitate the commission of a dangerous crime.

B. Amendments:

None.

By the Appropriations Committee on Criminal and Civil Justice; and Senator Leek

604-02783-25 20251168c1

A bill to be entitled

An act relating to the installation or use of tracking devices or applications; amending s. 934.425, F.S.; providing enhanced criminal penalties for a person who, to commit or facilitate the commission of a dangerous crime, knowingly installs or places a tracking device or tracking application on another person's property without consent or uses such a device or application to determine a person's or their property's location or movement without consent; providing an effective date.

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

Section 1. Subsection (5) of section 934.425, Florida Statutes, is amended, and subsection (2) of that section is republished, to read:

934.425 Installation or use of tracking devices or tracking applications; exceptions; penalties.—

(2) Except as provided in subsection (4), a person may not knowingly:

(a) Install or place a tracking device or tracking application on another person's property without that person's consent; or

(b) Use a tracking device or tracking application to determine the location or movement of another person or another person's property without that person's consent.

(5)(a) Except as provided in paragraph (b), a person who violates this section commits a felony of the third degree,

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punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) A person who violates this section to commit a dangerous crime or to facilitate the commission of a dangerous crime as defined in s. 907.041(5)(a) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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

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

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL:	CS/SB 1198
INTRODUCER:	Criminal Justice Committee and Senator DiCeglie
SUBJECT:	Fraudulent Use of Gift Cards
DATE:	March 31, 2025
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Vaughan	Stokes	CJ	**Fav/CS**
2.	Atchley	Harkness	ACJ	**Favorable**
3.	Vaughan	Yeatman	RC	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1198 creates s. 817.091, F.S., relating to the fraudulent use of gift cards to establish guidelines and penalties for fraudulent activities involving gift cards. It is a first degree misdemeanor[1] for a person with intent to defraud to:

- Acquire or retain possession of a gift card or of gift card redemption information without the consent of the cardholder, card issuer, or gift card seller.
- To alter or tamper with a gift card or its packaging.
- To devise a scheme to obtain a gift card or gift card redemption information from a cardholder, card issuer, or gift card seller by means of fraudulent pretenses.
- To use, for the purpose of obtaining money, goods, or services or anything else of value,[2] a gift card or gift card redemption information that has been obtained in violation of the above.

If the value of the money, goods, services or other things of value obtained as a result of the violation exceeds $750, the person is guilty of a third degree felony.[3]

[1] A first degree misdemeanor is punishable by not more than one year in a county jail and a fine not exceeding $1,000. Sections 775.082 and 775.083, F.S.

[2] The bill defines "value" as the greatest amount of economic loss the card issuer, gift card seller, or cardholder might reasonably suffer, including the full or maximum monetary face or load value of the gift card, regardless of whether the gift card has been activated.

[3] A felony of the third degree is punishable by a term of imprisonment of 5 years, as provided in ss. 775.082, 775.083, and 775.083, F.S.

The bill may have a positive indeterminate fiscal impact. See Section V. Fiscal Impact Statement.

The bill takes effect on October 1, 2025.

II. Present Situation:

Gift Cards

A gift card is a prepaid debit card that contains a specific amount of money available for use for a variety of purchases. Store gift cards are designed to be used at specific merchants or retailers, while general-use prepaid gift cards are not affiliated with any specific merchant and can also be used to withdraw cash at automated teller machines (ATMs).[4]

Gift Card Scams

According to a December 2020 analysis by the Federal Trade Commission (FTC), "About one in four who lost money to a fraud say they paid with a gift card. In fact, gift cards have topped the list of reported fraud payment methods every year since 2018. During that time, people reported losing a total of nearly $245 million, with a median individual loss of $840." The FTC's statistics exclude reports categorized as online shopping scams and come from consumer complaints directly to the FTC.[5] Scammers tamper with gift cards in stores using handheld scanners to capture card information, then periodically check the balance by calling the retailer's 800 number. Once the card is activated, they either clone and create counterfeit cards, use the information to shop online, or divert the funds to their own cards, leaving the unsuspecting buyer with an empty gift card.[6]

In June 2023, the Alachua County Sheriff's Office conducted a traffic stop and seized 1,764 gift cards that were reportedly altered and forged, with a value of $158,600. Another 208 gift cards were reportedly found, but deputies could not determine whether they had been altered; the known value of those cards is $10,500, but only 77 of the 208 have dollar amounts on the cards.[7]

Theft and Fraud

Theft and fraud are offenses that involve unlawfully taking or using someone else's property and engaging in deceptive practices for gain or profit. These offenses are currently prosecuted under

[4] Investopedia, *Gift Card: definition, types and scams to avoid*, available at https://www.investopedia.com/terms/g/gift-card.asp (last visited March 5, 2025).
[5] Better Business Bureau, *Gift Card Payment Scams*, available at https://www.bbb.org/all/scamstudies/gift-card-scams/gift-card-scams-full-study (last visited March 5, 2025).
[6] Better Business Bureau, *BBB Tip: Don't get scammed out of a gift card*, available at https://www.bbb.org/article/news-releases/14400-dont-get-scammed-out-of-a-gift-card-this-season (last visited March 3, 2025).
[7] Alachua Chronicle, *Pair arrested with 1,764 fraudulent gift cards, may be part of organized ring,* available at https://alachuachronicle.com/pair-arrested-with-1764-fraudulent-gift-cards-may-be-part-of-organized-ring/ (last visited March 5, 2025).

several different statutes including the Florida Communications Fraud Act,[8] theft,[9] and retail theft.[10] The penalties vary depending on the severity of the crime.

Theft

Theft is generally punished in s. 812.014, F.S., which provides that a person commits a theft if he or she knowingly obtains or uses, or endeavors to obtain or to use, the property of another with intent to either temporarily or permanently:

- Deprive the other person of a right to the property or a benefit from the property; or
- Appropriate the property to his or her own use or to the use of any person not entitled to use the property.[11]

Generally, a person commits a third degree felony[12] crime of grand theft if the property stolen is valued at $750 or more, but less than $20,000.[13] If the property stolen is $20,000 or more, but less than $100,000, the offender commits a second degree felony,[14] and if the property stolen is $100,000 or more, the offender commits a first degree felony.[15] Other items listed under this section such as the theft of a firearm, a motor vehicle, or a stop sign, may also constitute grand theft.[16]

Theft of any property not specified is a second degree misdemeanor,[17] and property stolen valued at $100 or more but less than $750 is a first degree misdemeanor.[18, 19]

Retail Theft

Section 812.015, F.S., is specifically directed at punishing "retail theft,"[20] which the statute defines as "the taking possession of or carrying away of merchandise,[21] property, money, or negotiable documents; altering or removing a label, universal product code, or price tag;

[8] Section 817.034, F.S.
[9] Section 812.014, F.S.
[10] Section 812.015, F.S.
[11] Section 812.014(1), F.S.
[12] A third degree felony is generally punishable by not more than 5 years in state prison and a fine not exceeding $5,000. Sections 775.082 and 775.083, F.S.
[13] Section 812.014(2)(c)1.-3., F.S.
[14] Section 812.014(2)(b), F.S.
[15] Section 812.014(2)(a)1., F.S.
[16] Section 812.014(2)(c), F.S.
[17] A second degree misdemeanor is punishable by a term of imprisonment not exceeding 60 days, as provided in s. 775.082 or s. 775.083, F.S.
[18] Section 812.014(3)(a), F.S., Section 812.014(2)(f), F.S.
[19] A first degree misdemeanor is punishable by not more than one year in a county jail and a fine not exceeding $1,000. Sections 775.082 and 775.083, F.S.
[20] Section 812.015, F.S.
[21] "Merchandise" means "any personal property, capable of manual delivery, displayed, held, or offered for retail sale by a merchant." Section 812.015(1)(g), F.S.

transferring merchandise from one container to another; or removing a shopping cart, with intent to deprive the merchant[22] of possession, use, benefit, or full retail value."[23, 24]

Section 812.015(8), F.S., provides that it is a third degree felony to commit retail theft, if the property stolen is valued at $750 or more, and the person:

- Individually, or in concert with one or more other persons, coordinates the activities of one or more individuals in committing the offense, which may occur through multiple acts of retail theft, in which the amount of each individual theft is aggregated within a 120-day period to determine the value of the property stolen and such value is $750 or more;
- Conspires with another person to commit retail theft with the intent to sell the stolen property for monetary or other gain, and subsequently takes or causes such property to be placed in the control of another person in exchange for consideration, in which the stolen property taken or placed within a 120-day period is aggregated to determine the value of the stolen property and such value is $750 or more;
- Individually, or in concert with one or more other persons, commits theft from more than one location within a 120-day period, in which the amount of each individual theft is aggregated to determine the value of the property stolen and such value is $750 or more;
- Acts in concert with one or more other individuals within one or more establishments to distract the merchant, merchant's employee, or law enforcement officer in order to carry out the offense, or acts in other ways to coordinate efforts to carry out the offense and such value is $750 or more;
- Commits the offense through the purchase of merchandise in a package or box that contains merchandise other than, or in addition to, the merchandise purported to be contained in the package or box and such value is $750 or more;
- Individually, or in concert with one or more other persons, commits three or more retail thefts within a 120-day period and in committing such thefts obtains or uses 10 or more items of merchandise, and the number of items stolen during each theft is aggregated within the 120-day period to determine the total number of items stolen, regardless of the value of such merchandise, and two or more of the thefts occur at different physical merchant locations; or
- Acts in concert with five or more other persons within one or more establishments for the purpose of overwhelming the response of a merchant, merchant's employee, or law enforcement officer in order to carry out the offense or avoid detection or apprehension for the offense. [25]

Section 812.015(9), F.S., provides that it is a second degree felony if the person has committed specified acts of retail theft, and has previously been convicted of retail theft.

Section 812.015(10), F.S., provides that if a person commits retail theft in more than one judicial circuit within a 120-day period, the value of the stolen property resulting from the thefts in each

[22] "Merchant" means "an owner or operator, or the agent, consignee, employee, lessee, or officer of an owner or operator, of any premises or apparatus used for retail purchase or sale of any merchandise." Section 812.015(1)(h), F.S.
[23] Section 812.015(1)(i), F.S.
[24] Section 812.015, F.S. defines "value of merchandise" as the sale price of the merchandise at the time it was stolen or otherwise removed, depriving the owner of her or his lawful right to ownership and sale of said item.
[25] Section 812.015(8)(a)-(g), F.S.

judicial circuit may be aggregated, and the person must be prosecuted by the Office of the Statewide Prosecutor in accordance with s. 16.56, F.S.

Schemes to Defraud

Section 817.034(3)(d), F.S., defines "scheme to defraud" means a systematic, ongoing course of conduct with intent to defraud one or more persons, or with intent to obtain property from one or more persons by false or fraudulent pretenses, representations, endorsements of nonconsenting parties, or promises or willful misrepresentations of a future act.[26] Any person who engages in a scheme to defraud and obtains property thereby commits organized fraud, punishable as follows:

- If the amount of property obtained has an aggregate value[27] of $50,000 or more, the person commits a first degree felony.[28]
- If the amount of property obtained has an aggregate value[29] of $20,000 or more, but less than $50,000, the person commits a second degree felony.[30]
- If the amount of property obtained has an aggregate value[31] of less than $20,000, the person commits a third degree felony.[32,33]

Section 832.05(3), F.S., provides if any person, by act or scheme, cashes or deposits any item in a bank or depository with intent to defraud commits a third degree felony.[34]

[26] Section 817.034(3)(d), F.S.
[27] Section 817.034, F.S., defines "value" as the value determined according to any of the following: the market value of the property at the time and place of the offense, or, if such cannot be satisfactorily ascertained, the cost of replacement of the property within a reasonable time after the offense; the value of a written instrument that does not have a readily ascertainable market value, in the case of an instrument such as a check, draft, or promissory note, is the amount due or collectible or is, in the case of any other instrument which creates, releases, discharges, or otherwise affects any valuable legal right, privilege, or obligation, the greatest amount of economic loss that the owner of the instrument might reasonably suffer by virtue of the loss of the instrument; the value of a trade secret that does not have a readily ascertainable market value is any reasonable value representing the damage to the owner, suffered by reason of losing an advantage over those who do not know of or use the trade secret; if the value of property cannot be ascertained, the trier of fact may find the value to be not less than a certain amount; if no such minimum value can be ascertained, the value is an amount less than $300; amounts of value of separate properties obtained in one scheme to defraud, whether from the same person or from several persons, shall be aggregated in determining the grade of the offense under paragraph (4)(a).
[28] A first degree felony is generally punishable by not more than 30 years in state prison and a fine not exceeding $10,000. When specifically provided by statute, a first degree felony may be punished by imprisonment for a term of years not exceeding life imprisonment. Sections 775.082 and 775.083, F.S.
[29] *See supra* note 28.
[30] A second degree felony is punishable by a term of imprisonment not exceeding 30 years and a $10,000 fine. Sections 775.082 and 775.083, F.S.
[31] *See supra* note 28.
[32] A third degree felony is generally punishable by not more than 5 years in state prison and a fine not exceeding $5,000. Sections 775.082 and 775.083, F.S.
[33] Section 817.034(4)(a), F.S.
[34] A third degree felony is generally punishable by not more than 5 years in state prison and a fine not exceeding $5,000. Sections 775.082 and 775.083, F.S.

III. Effect of Proposed Changes:

The bill creates s. 817.091, F.S., relating to the fraudulent use of gift cards and establishes guidelines and penalties for fraudulent activities involving gift cards. It is a first degree misdemeanor[35] for a person with intent to defraud to:

- Acquire or retain possession of a gift card or of gift card redemption information without the consent of the cardholder, card issuer, or gift card seller.
- To alter or tamper with a gift card or its packaging.
- To devise a scheme to obtain a gift card or gift card redemption information from a cardholder, card issuer, or gift card seller by means of fraudulent pretenses.
- To use, for the purpose of obtaining money, goods, or services or anything else of value, a gift card or gift card redemption information that has been obtained in violation of the above.

If the value of the money, goods, services or other things of value obtained as a result of the violation exceeds $750, the person is guilty of a third degree felony.[36]

Section 817.091, F.S., also provides definitions for the following terms:

- "Cardholder" means a person to whom a physical or virtual gift card is sold, gifted or issued following the authorized sale of a gift card;
- "Card issuer" means a person that issues a gift card or the agent of that person with respect to that card;
- "Gift card" as a card, code or device that is issued to a consumer on a prepaid basis primarily for personal, family, or household purposes in a specified amount, regardless of whether that amount may be increased or reloaded in exchange for payment, and that is redeemable upon presentation by a consumer at a single merchant, a group of affiliated merchants, or a group of unaffiliated merchants;
- "Gift card redemptive information" as information unique to each gift card which allows the cardholder to access, transfer, or spend the funds on that gift card;
- "Gift card seller" as a merchant that is engaged in the business of selling open-loop or closed-loop gift cards to consumers; and,
- "Value" as the greatest amount of economic loss the card issuer, gift card seller, or cardholder might reasonably suffer, including the full or maximum monetary face or load value of the gift card, regardless of whether the gift card has been activated.

The bill takes effect on October 1, 2025.

[35] A first degree misdemeanor is punishable by not more than one year in a county jail and a fine not exceeding $1,000. Sections 775.082 and 775.083, F.S.

[36] A felony of the third degree is punishable by a term of imprisonment of 5 years, as provided in ss. 775.082, 775.083, and 775.083, F.S.

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 Art. VII, s. 18 of the State Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Legislature's Office of Economic and Demographic Research (EDR) and the Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, has determined that the bill may have a positive indeterminate prison bed impact (unquantifiable increase in prison beds) on the Department of Corrections (DOC). The EDR provides the following additional information regarding its estimate:

> Under current law, these offenders are likely getting convicted under theft or fraud statutes, with that $750 threshold falling under the Level 2, 3rd degree felony for grand theft ($750 or more but less than $5,000). Per DOC, in FY 23-24, there were 366 new commitments for violating this statute. Additionally, there were 197 new commitments for grand theft at or above the $5,000 threshold,

with only 46 of those at the Level 7, 1st degree felony threshold ($100,000 or more). Retail theft also begins at $750 and could be where these offenses also currently exist. There were 58 new commitments for various retail theft offenses. Finally, fraud is another crime where these offenses could currently exist, and does not have a minimum monetary threshold. There were 114 new commitments to prison for fraud offenses in FY 23-24.

It is not known how many of these new commitments fit the criteria outlined in the bill, nor is it known how these new offenses will be used relative to the theft and fraud statutes, since theft and fraud become more serious felonies at higher monetary thresholds, while this remains a Level 1, 3rd degree felony for any value beyond the $750 threshold.

Per DOC, in FY 23-24, the incarceration rate for a Level 1, 3rd degree felony was 9.7%.[37]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 8179.091 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 Criminal Justice on March 11, 2025:

- The amendment revises definitions in the bill and provides that it is a first degree misdemeanor for a person, with the intent to defraud, to perform specified acts relating to gift cards. It is a third degree felony if the value of the money or goods fraudulently obtained exceeds $750.
- The amendment to the amendment adds language making it illegal to alter with gift card packaging.

[37] Office of Economic and Demographic Research, CS/*SB 1198 – Fraudulent Use of Gift Cards,* (on file with the Senate Appropriations Committee on Criminal and Civil Justice).

B. Amendments:

None.

By the Committee on Criminal Justice; and Senator DiCeglie

591-02285-25 20251198c1

A bill to be entitled

An act relating to fraudulent use of gift cards; creating s. 817.091, F.S.; defining terms; providing criminal penalties for persons who, with the intent to defraud, commit specified prohibited acts related to gift cards; providing criminal penalties for persons who, with the intent to defraud, use for certain purposes gift cards or gift card redemption information; providing enhanced criminal penalties if the value of such violation exceeds a specified amount; providing an effective date.

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

Section 1. Section 817.091, Florida Statutes, is created to read:

817.091 Fraudulent use of gift cards.—

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

(a) "Cardholder" means a person to whom a physical or virtual gift card is sold, gifted, or issued following the authorized sale of the gift card.

(b) "Card issuer" means a person that issues a gift card or the agent of that person with respect to that card.

(c) "Gift card" means a card, code, or device that is issued to a consumer on a prepaid basis primarily for personal, family, or household purposes in a specified amount, regardless of whether that amount may be increased or reloaded in exchange for payment, and that is redeemable upon presentation by a consumer at a single merchant, a group of affiliated merchants,

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or a group of unaffiliated merchants.

(d) "Gift card redemption information" means information unique to each gift card which allows the cardholder to access, transfer, or spend the funds on that gift card.

(e) "Gift card seller" means a merchant that is engaged in the business of selling gift cards to consumers.

(f) "Value" means the greatest amount of economic loss the card issuer, gift card seller, or cardholder might reasonably suffer, including the full or maximum monetary face or load value of the gift card, regardless of whether the gift card has been activated.

(2) It is unlawful for a person, with the intent to defraud:

(a) To acquire or retain possession of a gift card or of gift card redemption information without the consent of the cardholder, card issuer, or gift card seller.

(b) To alter or tamper with a gift card or its packaging.

(c) To devise a scheme to obtain a gift card or gift card redemption information from a cardholder, card issuer, or gift card seller by means of false or fraudulent pretenses, representations, or promises.

(d) To use, for the purpose of obtaining money, goods, services, or anything else of value, a gift card or gift card redemption information that has been obtained in violation of paragraph (a), paragraph (b), or paragraph (c).

(3)(a) Except as provided in paragraph (b), a person who violates subsection (2) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) If the value of the money, goods, services, or other

things of value obtained as a result of violating subsection (2) exceeds $750, the person commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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

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 1228
INTRODUCER:	Senator McClain
SUBJECT:	Spring Restoration
DATE:	March 31, 2025
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Barriero	Rogers	EN	**Favorable**
2.	Schrader	Imhof	RI	**Favorable**
3.	Barriero	Yeatman	RC	**Pre-meeting**

I. Summary:

SB 1228 allows a domestic wastewater facility with an approved plan to eliminate nonbeneficial surface water discharges to request to amend the plan to incorporate a reclaimed water project identified in an Outstanding Florida Springs recovery or prevention strategy. The Department of Environmental Protection (DEP) must approve the request within 60 days if the following conditions are met:

- The identified use of reclaimed water will benefit a rural area of opportunity.
- The project will provide at least 35 million gallons per day of reclaimed water to benefit an Outstanding Florida Spring.
- The project involves more than one domestic wastewater treatment facility.
- The project implementation and surface water discharge elimination schedule meets the minimum flows and minimum water levels requirements for Outstanding Florida Springs.

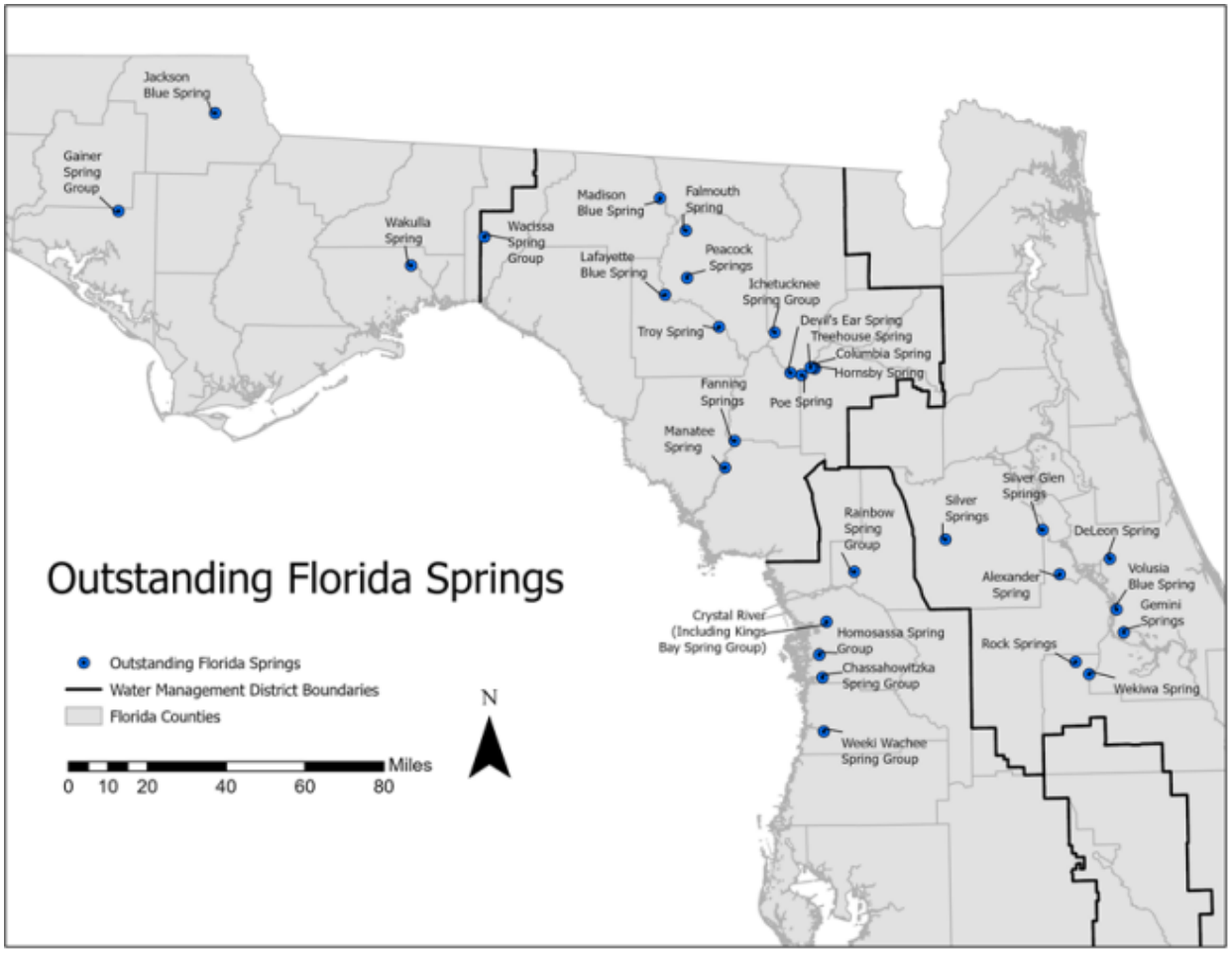
II. Present Situation:

Outstanding Florida Springs

In 2016, the Florida Legislature enacted the Florida Springs and Aquifer Protection Act and identified 30 Outstanding Florida Springs (OFSs) that require additional protections to ensure their conservation and restoration for future generations.[1] These springs are a unique part of the state's scenic beauty, provide critical habitat, and have immeasurable natural, recreational, and economic value.[2] OFSs are defined by statute and include all historic first magnitude springs, including their associated spring runs, as determined by the DEP using the most recent Florida

[1] DEP, *Springs*, https://floridadep.gov/springs/ (last visited Mar. 3, 2025).
[2] DEP, *Protect and Restore Springs*, https://floridadep.gov/springs/protect-restore (last visited Mar. 5, 2025); Ch. 2016-1, s. 22, Laws of Fla.

Geological Survey springs bulletin, and several additional enumerated springs.[3] There are 30 OFSs, including 24 historic first magnitude springs and six named additional springs.[4]



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The water quality for each OFS must be assessed and a minimum flow or minimum water level (MFL) must be established.[6]

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[3] Section 373.802(4), F.S.

[4] DEP, *Outstanding Florida Springs*, https://geodata.dep.state.fl.us/datasets/outstanding-florida-springs-ofs/about?layer=1 (last visited Mar. 22, 2025). The 30 OFSs are Alexander Spring, Chassahowitzka Springs Group, Columbia Spring, Crystal River, DeLeon Spring, Devil's Ear Spring, Falmouth Spring, Fanning Springs, Gainer Spring Group, Gemini Springs, Homasassa Spring Group, Hornsby Spring, Ichetucknee Spring Group, Jackson Blue Spring, Lafayette Blue Spring, Madison Blue Spring, Manatee Spring, Peacock Springs, Poe Spring, Rainbow Spring Group, Rock Springs, Silver Glen Springs, Silver Springs, Treehouse Spring, Troy Spring, Volusia Blue Spring, Wacissa Spring Group, Wakulla Spring, Weeki Wachee Springs Group, and Wekiwa Spring. DEP, *62-41.400-403, F.A.C. Outstanding Florida Springs Rule Development Workshop*, 5 (2023), *available at* https://floridadep.gov/sites/default/files/OFS_Workshop_Aug-28-2023_0.pdf (showing map of OFSs).

[5] DEP, *62-41.400-403, F.A.C. Outstanding Florida Springs Rule Development Workshop*, *supra* note 4 at pg. 4.

[6] *See* ch. 2016-1, s. 5, Laws of Fla.; s. 373.042(2)(a), F.S. *See also* DEP, *Protect and Restore Springs*, https://floridadep.gov/springs/protect-restore; DEP, *Minimum Flows and Minimum Water Levels and Reservations*, https://floridadep.gov/water-policy/water-policy/content/minimum-flows-and-minimum-water-levels-and-reservations#Minimum%20Flows%20and%20Minimum%20Water%20Levels%20(MFLs) (last visited Mar. 5, 2025).

Minimum Flow and Minimum Water Levels (MFLs)

MFLs are established for waterbodies to prevent significant harm to the water resources or ecology of an area as a result of water withdrawals.[7] MFLs are typically determined based on evaluations of natural seasonal fluctuations in water flows or levels, nonconsumptive uses, and environmental values associated with coastal, estuarine, riverine, spring, aquatic, wetlands ecology, and other pertinent information associated with the water resource.[8]

While the DEP has the authority to adopt MFLs, the state's five water management districts have the primary responsibility for MFL adoption. Water management districts submit annual MFL priority lists and schedules to the DEP for the establishment of MFLs for surface watercourses, aquifers, and surface waters within the district.[9] MFLs are calculated using the best information available[10] and are considered rules by the water management districts, which are subject to administrative challenges pursuant to ch. 120, F.S..[11] MFLs are subject to independent scientific peer review at the election of the DEP, a water management district, or, if requested, by a third party.[12]

MFLs must be established for each OFS.[13] If the water management district or the DEP fails to do so, it must adopt an MFL by emergency rule pursuant to s. 120.54(4), F.S.[14] For OFSs identified on a water management district's priority list which have the potential to be affected by withdrawals in an adjacent district, the adjacent district and the DEP must collaboratively develop and implement a recovery or prevention strategy for an OFS not meeting an adopted MFL.[15]

For OFSs that fall below the adopted MFL, or are projected to fall below the MFL within 20 years, the DEP or water management districts must implement a recovery or prevention strategy to ensure the MFL is maintained over the long-term.[16] The recovery or prevention strategy must include:

- A listing of all specific projects identified for implementation of the plan;
- A priority listing of each project;
- The estimated cost and date of completion for each listed project;
- The source and amount of financial assistance to be made available by the water management district for each listed project, which may not be less than 25 percent of the total project cost

[7] *See* s. 373.042, F.S.; *see also* DEP, *Minimum Flows and Minimum Water Levels and Reservations*, *supra* note 6.
[8] Fla. Admin. Code R. 62-40.473(1).
[9] Section 373.042(3), F.S.
[10] Section 373.042(1), F.S.
[11] Section 373.042(5) and (7), F.S.
[12] Section 373.042(6)(a), F.S.
[13] Section 373.042(2), F.S.
[14] *Id*.
[15] Section 373.042(2)(b), F.S.
[16] DEP, *Minimum Flows and Minimum Water Levels and Reservations*, https://floridadep.gov/owper/water-policy/content/minimum-flows-and-minimum-water-levels-and-reservations#Minimum%20Flows%20and%20Minimum%20Water%20Levels%20(MFLs) (last visited Mar. 22, 2025); section 373.805(1), F.S.

unless a specific funding source or sources are identified which will provide more than 75 percent of the total project cost;[17]
- An estimate of each listed project's benefit to an OFS; and
- An implementation plan designed with a target to achieve the adopted MFL no more than 20 years after the adoption of the recovery or prevention strategy.[18]

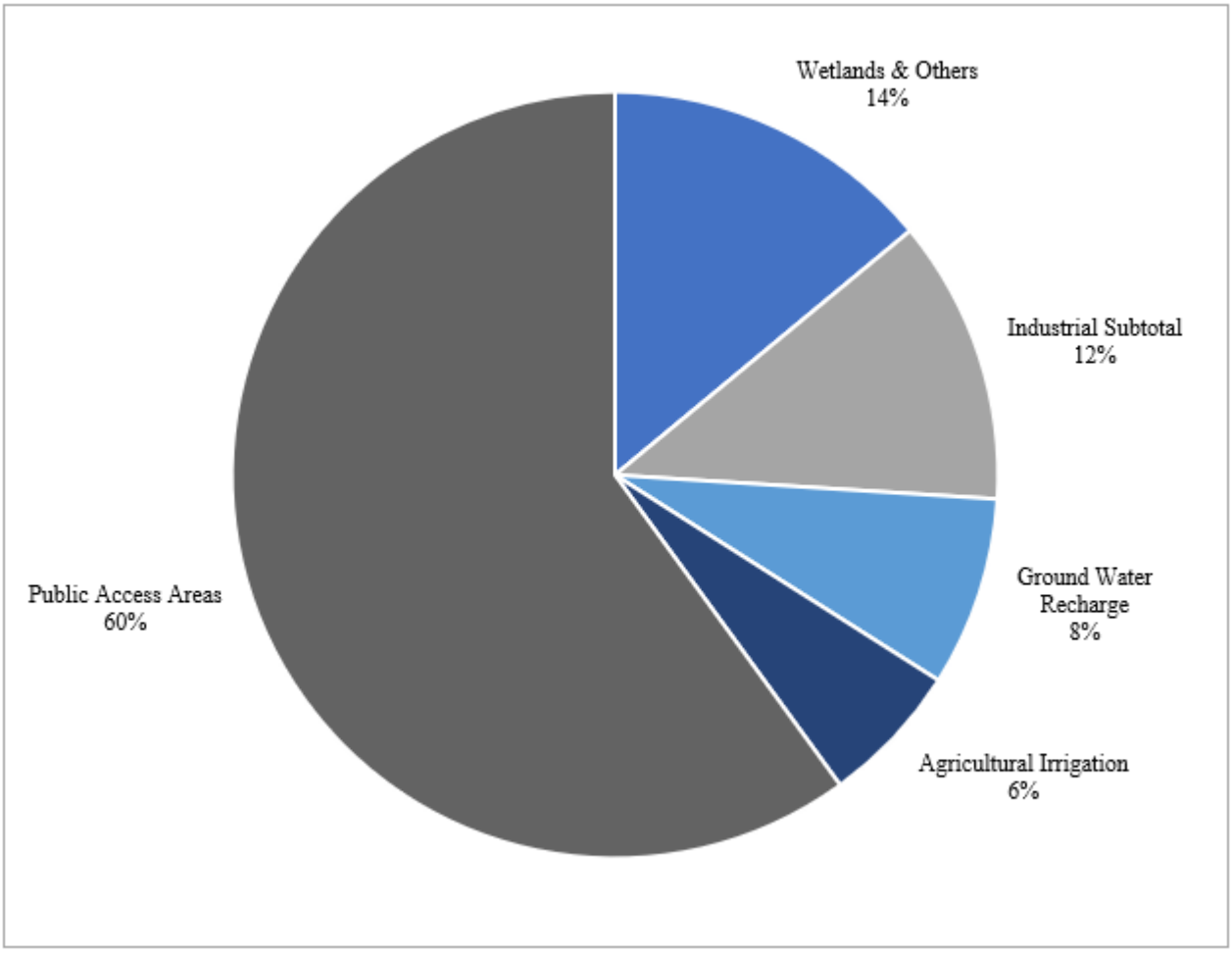
Reuse of Reclaimed Water

Reclaimed water is water that receives at least secondary treatment and basic disinfection and is reused after flowing out of a domestic wastewater treatment facility.[19] The reuse of reclaimed water is a critical component of meeting the state's existing and future water supply needs while sustaining natural systems and encouraging its best and most beneficial use.[20] Reclaimed water can be used for many purposes including:
- Irrigation of golf courses, parks, residential properties, highway medians and other landscaped areas;
- Urban uses such as toilet flushing, car washing, dust control and aesthetic purposes (i.e., decorative lakes, ponds, and fountains);
- Agricultural uses such as irrigation of edible food crops, pasture lands, grasslands, and other feed and fodder crops, and irrigation at nurseries;
- Wetlands creation, restoration, and enhancement;
- Recharging ground water with the use of rapid infiltration basins (percolation ponds), absorption fields, and direct injection to ground waters;
- Augmentation of surface waters that are used for drinking water supplies; and
- Industrial uses, including plant wash down, processing water, and cooling water purposes.[21]

A total of 380 domestic wastewater treatment facilities made reclaimed water available for reuse in 2023.[22] Approximately 891 million gallons per day (mgd) of reclaimed water from these facilities was reused for beneficial purposes, such as irrigating 655,171 residences, 536 golf courses, 1,104 parks, and 417 schools.[23] Irrigation accounted for about 60 percent of the 891 mgd of reclaimed water that was reused.[24] The graph below shows the percentage of reclaimed water utilization, by flow, for each reuse type.[25]

[17] The Northwest Florida Water Management District and the Suwannee River Water Management District are not required to meet the minimum financial assistance requirement. Section 373.805(4), F.S.
[18] *Id.*
[19] Fla. Admin. Code R. 62-600.200(57).
[20] Section 403.064(1), F.S.
[21] DEP, *Uses of Reclaimed Water*, https://floridadep.gov/water/domestic-wastewater/content/uses-reclaimed-water (last visited Mar. 22, 2025).
[22] DEP, *2023 Reuse Inventory Report*, 7 (2024), *available at* https://floridadep.gov/water/domestic-wastewater/content/reuse-inventory-database-and-annual-report.
[23] *Id.* at 7-8; DEP, *Florida's Reuse Activities*, https://floridadep.gov/water/domestic-wastewater/content/floridas-reuse-activities (last visited Mar. 22, 2025).
[24] *Id.*
[25] DEP, *2023 Reuse Inventory Report* at 12 (showing graph of reclaimed water utilization).

Figure 1: Reclaimed Water Utilization by Flow.



Note: Agriculture irrigation includes edible crops as well as feed and fodder crops (e.g., spray fields).

The total reuse capacity of Florida's domestic wastewater treatment facilities has increased from 1,116 mgd in 2000 to 2,497 mgd in 2023.[26] The current reuse capacity represents about 55 percent of the total permitted domestic wastewater treatment capacity in Florida.[27]

Eliminating Nonbeneficial Discharges

Domestic wastewater utilities that dispose of effluent, reclaimed water, or reuse water by surface water discharge are required to submit to the DEP a plan for eliminating nonbeneficial surface water discharge by January 1, 2032.[28] The plan must include the average gallons per day of effluent, reclaimed water, or reuse water that will no longer be discharged into surface waters and the date of such elimination, the average gallons per day of surface water discharge which will continue in accordance with approved alternative uses, and the level of treatment that the

[26] DEP, *Florida's Reuse Activities*, https://floridadep.gov/water/domestic-wastewater/content/floridas-reuse-activities (last visited Mar. 5, 2025).
[27] *Id.*
[28] Section 403.064(16), F.S.

effluent, reclaimed water, or reuse water will receive before being discharged into a surface water by each alternative.[29]

The utility's plan must eliminate surface water discharges or meet the requirements of s. 403.086(10), F.S., which regulates the elimination of domestic wastewater through ocean outfalls.[30] If the plan does not provide for the complete elimination of surface water discharges, it must provide an affirmative demonstration that any of the following conditions apply to the remaining discharge:

- The discharge is associated with an indirect potable reuse project;
- The discharge is a wet weather discharge that occurs in accordance with an applicable DEP permit;
- The discharge is into a stormwater management system and is subsequently withdrawn for irrigation purposes;
- The utility operates domestic wastewater treatment facilities with reuse systems that reuse a minimum of 90 percent of the facility's annual average flow for reuse purposes; or
- The discharge provides direct ecological or public water supply benefits, such as rehydrating wetlands or implementing the requirements of MFLs or recovery or prevention strategies for a waterbody.[31]

These requirements do not apply to domestic wastewater treatment facilities that are:

- Located in a fiscally constrained county.[32]
- Located in a municipality that is entirely within a rural area of opportunity.[33]
- Located in a municipality that has less than $10 million in total revenue.
- Operated by an operator of a mobile home park[34] and has a permitted capacity of less than 300,000 gallons per day.[35]

A utility may modify its plan, provided it continues to meet the above requirements and the timeline to implement the plan is not extended.[36] If a plan is not timely submitted or approved by

[29] *Id.*
[30] Section 403.064(16)(a)1. and 2., F.S. Section 403.086(10), F.S., prohibits constructing new or expanding existing ocean outfalls beyond the capacities authorized as of July 1, 2008. By December 31, 2018, wastewater discharged through ocean outfalls must meet advanced treatment standards that reduce nitrogen and phosphorus levels, and by December 31, 2025, utilities must implement reuse systems to repurpose at least 60 percent of their baseline wastewater flow for approved beneficial uses such as irrigation, aquifer recharge, and industrial cooling. After December 31, 2025, ocean outfall discharges are prohibited except for limited backup flows under specific conditions.
[31] Section 403.064(16)(a)3., F.S.
[32] Each county that is entirely within a rural area of opportunity or each county for which the value of a mill will raise no more than $5 million in revenue from the previous July 1, is considered a fiscally constrained county. Section 218.67(1), F.S.
[33] "Rural area of opportunity" means a rural community, or a region composed of rural communities, designated by the Governor, which has been adversely affected by an extraordinary economic event, severe or chronic distress, or a natural disaster or that presents a unique economic development opportunity of regional impact. Section 288.0656(2)(d), F.S.
[34] "Operator of a mobile home park" means either a person who establishes a mobile home park on land that is leased from another person or a person who has been delegated the authority to act as the park owner in matters relating to the administration and management of the mobile home park, including, but not limited to, authority to make decisions relating to the mobile home park. Section 723.003(16), F.S.
[35] Section 403.064(16)(g), F.S.
[36] Section 403.064(16)(b), F.S.

the DEP, the utility's domestic wastewater treatment facilities may not dispose of effluent, reclaimed water, or reuse water by surface water discharge after January 1, 2028.[37]

Rural Areas of Opportunity

Section 288.0656(2)(d), F.S., defines a rural area of opportunity as a rural community, or a region composed of rural communities, designated by the Governor, which has been adversely affected by an extraordinary economic event, severe or chronic distress, or a natural disaster or that presents a unique economic development opportunity of regional impact. Florida's current rural areas of opportunity are:

- Opportunity Florida (the Northwest Rural Area of Opportunity), consisting of Calhoun, Franklin, Gadsden, Gulf, Holmes, Jackson, Liberty, Wakulla, and Washington counties, and the area within the city limits of Freeport and Walton County north of the Choctawhatchee Bay and intercoastal waterway.
- North Florida Economic Development Partnership (the North Central Rural Area of Opportunity), consisting of Baker, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Jefferson, Lafayette, Levy, Madison, Putnam, Suwannee, Taylor, and Union counties.
- Florida's Heartland Regional Economic Development Initiative, Inc. (the South Central Rural Area of Opportunity), consisting of DeSoto, Glades, Hardee, Hendry, Highlands, and Okeechobee counties, and the cities of Pahokee, Belle Glade, and South Bay (Palm Beach County), and Immokalee (Collier County).

III. Effect of Proposed Changes:

Section 1 amends s. 403.064, F.S., which regulates the reuse of reclaimed water. The bill provides that a domestic wastewater facility with an approved plan may submit a request to the DEP to amend the plan to incorporate a reclaimed water project identified in an Outstanding Florida Springs recovery or prevention strategy. The DEP must approve the request within 60 days after receipt of the request if all the following conditions are met:

- The identified use of reclaimed water will benefit a rural area of opportunity.
- The project will provide at least 35 million gallons per day of reclaimed water to benefit an Outstanding Florida Spring.
- The project involves more than one domestic wastewater treatment facility.
- The project implementation and surface water discharge elimination schedule meets the minimum flows and minimum water levels requirements for Outstanding Florida Springs.

Section 2 provides an effective date of July 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

[37] Section 403.064(16)(d), F.S.

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:

Indeterminate.

C. Government Sector Impact:

Indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 403.064 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 McClain

9-01395A-25 20251228__

A bill to be entitled

An act relating to spring restoration; amending s. 403.064, F.S.; authorizing certain domestic wastewater treatment facilities to request the incorporation of reclaimed water projects identified in Outstanding Florida Springs recovery or prevention strategies; requiring the Department of Environmental Protection to approve such requests within a certain period of time if certain conditions are met; providing an effective date.

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

Section 1. Present paragraphs (f) through (i) of subsection (16) of section 403.064, Florida Statutes, are redesignated as paragraphs (g) through (j), respectively, and a new paragraph (f) is added to that subsection, to read:

403.064 Reuse of reclaimed water.—

(16) By November 1, 2021, domestic wastewater utilities that dispose of effluent, reclaimed water, or reuse water by surface water discharge shall submit to the department for review and approval a plan for eliminating nonbeneficial surface water discharge by January 1, 2032, subject to the requirements of this section. The plan must include the average gallons per day of effluent, reclaimed water, or reuse water that will no longer be discharged into surface waters and the date of such elimination, the average gallons per day of surface water discharge which will continue in accordance with the alternatives provided for in subparagraphs (a)2. and 3., and the

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level of treatment that the effluent, reclaimed water, or reuse water will receive before being discharged into a surface water by each alternative.

(f) A domestic wastewater treatment facility with an approved plan may submit a request to the department to amend the plan to incorporate a reclaimed water project identified in an Outstanding Florida Springs recovery or prevention strategy adopted pursuant to s. 373.805. The department must approve the request within 60 days after receipt of the request if all of the following conditions are met:

1. The identified use of reclaimed water will benefit a rural area of opportunity as defined in s. 288.0656(2).

2. The project will provide at least 35 million gallons per day of reclaimed water to benefit an Outstanding Florida Spring.

3. The project involves more than one domestic wastewater treatment facility.

4. The project implementation and surface water discharge elimination schedule meets the requirements of s. 373.805.

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

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

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL:	SB 1286
INTRODUCER:	Senators Grall and Sharief
SUBJECT:	Harming or Neglecting Children
DATE:	March 31, 2025
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rao	Tuszynski	CF	**Favorable**
2.	Atchley	Harkness	ACJ	**Favorable**
3.	Rao	Yeatman	RC	**Pre-meeting**

I. Summary:

SB 1286 amends the definition of harm and neglect of a child in ch. 39, F.S., to allow caregivers to let a sufficiently mature child partake in independent, unsupervised activities without considering these actions as harm or neglect of a child.

The bill considers independent, unsupervised activities as harm if the child is subjected to obvious danger of which the caregiver knew or should have known, or the child cannot exercise the reasonable judgment required to avoid serious harm upon responding to physical or emotional crises.

The bill considers independent, unsupervised activities as neglect of a child if such activities constitute reckless conduct that endangers the health or safety of the child.

Additionally, the bill amends the definition of neglect of a child in criminal statute to add a willful standard in a caregiver's failure or omission to provide a child with the necessary services to maintain the child's physical and mental health.

The bill also excludes independent, unsupervised activities that a child engages in from the definition of neglect of a child in ch. 827, F.S., unless the activities constitute a willful and wanton conduct that endangers the health or safety of the child.

The bill is not expected to have a fiscal impact on the government or private sector. See Section V. Fiscal Impact Statement.

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

II. Present Situation:

Florida's Child Welfare System

Chapter 39, F.S., creates Florida's dependency system charged with protecting children who have been abused, abandoned, or neglected.[1] Florida's child welfare system identifies children and families in need of services through reports to the central abuse hotline and child protective investigations. The Department of Children and Families (DCF) and community-based care lead agencies (CBCs) work with those families to address the problems endangering children, if possible. If the problems cannot be addressed, the child welfare system finds safe out-of-home placements for these children.[2]

Child welfare services are directed toward the prevention of child abuse, abandonment, and neglect.[3] The DCF practice model is based on increasing the safety of the child within his or her home, using in-home services, such as parenting coaching and counseling to maintain and strengthen the child's natural supports in the home environment.[4] These services are coordinated by DCF-contracted CBCs. The DCF is responsible for many child welfare services, including operating the central abuse hotline, performing child protective investigations, and providing children's legal services.[5] Ultimately, the DCF is responsible for program oversight and the overall performance of the child welfare system.[6]

When child welfare necessitates that the DCF remove a child from the home to ensure his or her safety, a series of dependency court proceedings must occur to place that child in an out-of-home placement, adjudicate the child dependent, and if necessary, terminate parental rights and free the child for adoption. Steps in the dependency process usually include:

- A report to the Florida Abuse Hotline.
- A child protective investigation to determine the safety of the child.
- The court finding the child dependent.
- Case planning for the parents to address the problems resulting in the child's dependency.
- Placement in out-of-home care, if necessary.
- Reunification with the child's parent or another option to establish permanency, such as adoption after termination of parental rights. [7, 8]

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[1] Chapter 39, F.S.
[2] Chapter 39, F.S.
[3] Section 39.001, F.S.
[4] *See generally* The Department of Children and Families, *Florida's Child Welfare Practice Model,* available at: https://www.myflfamilies.com/services/child-family/child-and-family-well-being/floridas-child-welfare-practice-model (last visited 2/25/25).
[5] Office of Program Policy Analysis and Government Accountability, Child Welfare System Performance Mixed in First Year of Statewide Community-Based Care, Report 06-50, June 2006, available at: https://oppaga.fl.gov/Products/ReportDetail?rn=06-50 (last visited 2/25/25).
[6] *Id.*
[7] *See generally* Ch. 39, F.S.
[8] The state has a compelling interest in providing stable and permanent homes for adoptive children in a prompt manner, in preventing the disruption of adoptive placements, and in holding parents accountable for meeting the needs of children. See Section 63.022, F.S.

Central Abuse Hotline

The DCF is required to operate and maintain a central abuse hotline (hotline)[9] to receive reports of known or suspected instances of child abuse,[10] abandonment,[11] or neglect,[12] or instances when a child does not have a parent, legal custodian, or adult relative available to provide supervision and care.[13] The hotline must operate 24 hours a day, 7 days a week, and accept reports through a single statewide toll-free telephone number or through electronic reporting.[14]

If the hotline determines a report meets the statutory criteria for child abuse, abandonment, or neglect, a DCF child protective investigator (CPI) must complete a child protective investigation.[15]

Child Maltreatment Index

The Child Maltreatment Index (Index) is utilized by central abuse hotline counselors and CPIs to determine if a report of abuse, abandonment, or neglect meets the criteria for verifying child maltreatment.[16] The Index defines each maltreatment, factors to consider in the assessment of each maltreatment, and also frequently correlated maltreatments.[17]

There are 27 maltreatment types that can be assigned to a report. A report of abuse, abandonment, or neglect must contain at least one of the following maltreatment types; however, a report may include multiple maltreatment types. The maltreatment types are as follows:

- Abandonment.
- Asphyxiation.

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[9] Hereinafter cited as "hotline." The "Central Abuse Hotline" is the DCF's central abuse reporting intake assessment center, which receives and processes reports of known or suspected child abuse, neglect or abandonment 24 hours a day, seven days a week. Chapter 65C-30.001, F.A.C. and Section 39.101, F.S.

[10] Section 39.01(2), F.S. defines "abuse" as any willful act or threatened act that results in any physical, mental, or sexual abuse, injury, or harm that causes or is likely to cause the child's physical, mental, or emotional health to be significantly impaired.

[11] Section 39.01(1), F.S. defines "abandoned" or "abandonment" as a situation in which the parent or legal custodian of a child or, in the absence of a parent or legal custodian, the caregiver, while being able, has made no significant contribution to the child's care and maintenance or has made no significant contribution to the child's care and maintenance or has failed to establish or maintain a substantial and positive relationship with the child, or both. "Establish or maintain a substantial and positive relationship" means, in part, frequent and regular contact with the child, and the exercise of parental rights and responsibilities.

[12] Section 39.01(53), F.S. states "neglect" occurs when a child is deprived of, or is allowed to be deprived of, necessary food, clothing, shelter, or medical treatment or a child is permitted to live in an environment when such deprivation or environment causes the child's physical, mental, or emotional health to be significantly impaired or to be in danger of being significantly impaired, except when such circumstances are caused primarily by financial inability unless services have been offered and rejected by such person.

[13] Section 39.201(1), F.S.

[14] Section 39.101(1), F.S.

[15] Prior to July 1, 2023, seven counties allowed the local sheriff's office to perform child protective investigations. The 2023 legislative session transitioned this responsibility fully back to the Department after changes in Florida's child welfare system aimed to integrate child protective investigations within existing crisis-oriented systems the DCF maintains. *See generally:* Laws of Fla. 2023-77.

[16] Florida Department of Children and Families, *CFOP 170-4*, available at: https://prod.myflfamilies.com/sites/default/files/2024-05/CFOP%20170-04%20Child%20Maltreatment%20Index.pdf (last visited 3/12/25).

[17] *Id.*

- Bizarre Punishment.
- Bone Fracture.
- Burns.
- Death.
- Environmental Hazards.
- Failure to Protect.
- Failure to Thrive/Malnutrition/Dehydration.
- Household Violence Threatens Child.
- Human Trafficking — CSEC.
- Human Trafficking — Labor.
- Inadequate Supervision.
- Internal Injuries
- Intimate Partner Violence Threatens Child.
- Medical Neglect.
- Mental Injury.
- Physical Injury.
- Sexual Abuse: Sexual Battery.
- Sexual Abuse: Sexual Exploitation.
- Sexual Abuse: Sexual Molestation.
- Substance-Exposed Newborn.
- Substance Misuse.
- Substance Misuse — Alcohol.
- Substance Misuse — Illicit Drugs.
- Substance Misuse — Prescription Drugs.
- Threatened Harm. [18]

Hotline counselors utilize the definitions of these maltreatment types to determine if the reported information meets the criteria for acceptance of an investigation or special conditions report.[19] Upon determination that the report should be accepted for investigation, the central abuse hotline notifies the DCF staff responsible for protective investigations.[20]

Child Protective Investigations

Once a report is accepted by the hotline staff, the CPIs conduct a child protective investigation.[21] These investigations consist of the following:

- A review of all relevant, available information specific to the child, family, and alleged maltreatment; family child welfare history; local, state, and federal criminal records check; and requests for law enforcement assistance provided by the abuse hotline.
    - Based on a review of available information, including the allegations in the current report, a determination shall be made as to whether immediate consultation should occur

[18] *Id.*
[19] *Id.*
[20] Section 39.301, F.S.
[21] Section 39.301, F.S.

with law enforcement, the Child Protection Team, a domestic violence shelter or advocate, or a substance abuse or mental health professional.[22]

- Face-to-face interviews with the child; other siblings, if any; and the parents, legal custodians, or caregivers.
- Assessment of the child's residence, including a determination of the composition of the family and household.
- Determine whether there is any indication that any child in the family or household has been abused, abandoned, or neglect; the nature and extent of present or prior injuries, abuse, or neglect, and any evidence thereof; and a determination as to the person or persons apparently responsible for the abuse, abandonment, or neglect.
- Documentation of the present and impending dangers to each child based on the identification of inadequate protective capacity through utilization of a standardized safety assessment instrument (the Index).[23]

CPIs utilize the definitions of maltreatment types to make a determination regarding each of the alleged maltreatments and make one of the following findings:

- **"Verified"** is used when a preponderance of the credible evidence results in a determination the specific harm or threat of harm was the result of abuse, abandonment, or neglect.
- **"Not Substantiated"** is used when there is credible evidence which does not meet the standard of being a preponderance to support that the specific harm was the result of abuse, abandonment, or neglect.
- **"No Indicators"** is used when there is no credible evidence to support that the specific harm was the result of abuse, abandonment, or neglect.[24]

The findings of CPIs are used to determine the next course of action. If the CPI identifies present or impending danger, the CPI must implement a safety plan or take the child into custody. If impending danger is identified and the child is not removed, the CPI must create and implement a safety plan before leaving the home or location where there is present danger.[25] If impending danger is identified, the CPI must create and implement a safety plan as soon as necessary to protect the safety of the child. The safety plan may be modified by the CPI if necessary.[26]

The CPI must either implement a safety plan for the child, which allows the child to remain in the home with in-home services or take the child into custody. If the child cannot safely remain in the home with a safety plan, the DCF must file a shelter petition and remove the child from his or her current home and temporarily place them in out-of-home care.[27]

Harm to a Child's Health or Welfare

The Index utilizes the statutory definition of "harm" in the findings of a report of abuse, abandonment, or neglect as Verified, Not Substantiated, or No Indicators. Generally, the current

[22] Section 39.301(9)(a), F.S.
[23] *Id*.
[24] *Id.*
[25] Section 39.301, F.S.
[26] *Id*.
[27] *Id*.

definition of harm includes actions such as the following that negatively affect a child's health or welfare:

- Inflicts or allows to be inflicted upon the child physical, mental, or emotional injury.
- Commits, or allows to be committed, sexual battery, as defined in ch. 794, F.S., or lewd or lascivious acts, as defined in ch. 800, F.S., against the child.
- Abandons the child.
- Neglects the child.
- Exposes a child to a controlled substance or alcohol.
- Engages in violent behavior that demonstrates a wanton disregard for the presence of a child and could reasonably result in serious injury to the child.
- Negligently fails to protect a child in his or her care from inflicted physical, mental, or sexual injury caused by the acts of another.
- Makes the child unavailable for the purpose of impeding or avoiding a protective investigation unless the court determines that the parent, legal custodian, or caregiver was fleeing from a situation involving domestic violence.[28]

The definition of harm includes specific instances in which harm to a child has occurred, including willful acts that produce specific injuries.[29] As used in this definition, the term "willful" refers to the intent to perform an action, not to the intent to achieve a result or to cause an injury.[30]

Current law considers leaving a child without adult supervision so that the child is unable to care for the child's own needs or another's basic needs, or is unable to exercise good judgment in responding to any kind of physical or emotional crisis as meeting the criteria of harm. The current statutory language does not specify any independent or unsupervised actions that a child may partake in that do not meet the criteria for harm, or includes any language about the caregiver's knowledge of obvious danger.

Neglect of the Child

Neglect of the child is included in the definition of harm. Current law defines the term "neglects the child" to mean that the parent or other person responsible for the child's welfare fails to supply the child with adequate food, clothing, shelter, or health care, although financially able to do so or offered financial or other means to do so.[31] The current statutory language does not provide exceptions to this term that relate to the independent and unsupervised activities of a child.

Abuse of Children - Criminal Law

Chapter 827, F.S., criminalizes the abuse of children. Current law defines "neglect of a child" for use in ch. 827, F.S., as:

- A caregiver's failure or omission to provide a child with the care, supervision, and services necessary to maintain the child's physical and mental health, including, but not limited to,

[28] Section 39.01(37), F.S.
[29] *Id.*
[30] *Id.*
[31] *Id.*

food, nutrition, clothing, shelter, supervision, medicine, and medical services that a prudent person would consider essential for the well-being of the child; or
- A caregiver's failure to make a reasonable effort to protect a child from abuse, neglect, or exploitation by another person.[32]

Neglect of a child may be based on repeated conduct or on a single incident or omission that results in, or could reasonably be expected to result in, serious physical or mental injury, or a substantial risk of death, to a child.[33]

Current law does not provide exceptions relating to the independent and unsupervised activities of a child.

Offenses Relating to the Abuse of Children

Florida law provides the following penalties for the abuse of children:
- A person who commits aggravated child abuse commits a felony of the first degree, punishable as provided in s. 775.082, F.S, s. 775.083, F.S., or s. 775.084, F.S.
- A person who willfully or by culpable negligence neglects a child and in so doing causes great bodily harm, permanent disability, or permanent disfigurement to the child commits a felony of the second degree, punishable as provided in s. 775.082, F.S., s. 775.083, F.S., or s. 775.084, F.S.
- A person who knowingly or willfully abuses a child without causing great bodily harm, permanent disability, or permanent disfigurement to the child commits a felony of the third degree, punishable as provided in s. 775.082, F.S., s. 775.083, F.S., or s. 775.084, F.S.[34]

III. Effect of Proposed Changes:

Section 1 of the bill amends the definition of harm in s. 39.01, F.S., to exclude circumstances in which a caregiver allows a child of sufficient maturity and physical condition from engaging in independent unsupervised activities from the definition of harm. Such independent unsupervised activities include, but are not limited to:
- Traveling to or from school or nearby locations by bicycle or on foot;
- Playing outdoors; or
- Remaining at home or any other location for a reasonable period of time, unless allowing such activities constitutes conduct that is so reckless as to endanger the health or safety of the child.

The bill specifies instances in which leaving a child without adult supervision or arrangement appropriate for the child's age, mental, or physical condition is considered harm. The bill establishes that a caregiver has harmed a child's health or welfare when the child is subjected to obvious danger of which the child's caregiver knew or should have known, or the child is unable to exercise reasonable judgment to avoid serious harm to himself or others in responding to any kind of physical or emotional crisis. The bill requires that a child must be able to exercise reasonable judgment to avoid serious harm to himself or others; meaning, a child cannot be left

[32] Section 827.03(1)(e), F.S.
[33] *Id.*
[34] Section 827.03(2), F.S.

alone without adult supervision or arrangement appropriate for his or her age if he or she cannot exercise reasonable judgment to avoid harm to himself or others.

The bill specifies that allowing a child to engage in these independent and unsupervised activities does not constitute neglect of a child within the definition of harm, unless allowing such activities constitutes reckless conduct that endangers the health or safety of the child.

Section 2 of the bill amends s. 827.03, F.S., to include a willful standard to the definition of neglect of a child in criminal statute, ch. 827, F.S. This change provides that a caregiver must *willfully* fail or omit to provide a child with the care, supervision, and services necessary to maintain the child's physical and mental health to be considered as harm. The bill excludes independent and unsupervised activities that a caregiver allows a child to engage in from constituting the neglect of a child, unless allowing such activities constitutes willful and wanton conduct that endangers the health and safety of the child.

The bill considers independent and unsupervised activities to include, but not be limited to:
- Traveling to or from school or nearby locations by bicycle or on foot;
- Playing outdoors; or
- Remaining at home or any other location for a reasonable period of time.

Section 3 of the bill reenacts s. 390.01114, F.S., relating to the definition of the term "child abuse," to incorporate the amendment made to s. 39.01, F.S., by the bill.

Section 4 of the bill reenacts s. 984.03, F.S., relating to the definition of the term "abuse," to incorporate the amendment made to s. 39.01, F.S., by the bill.

Section 5 of the bill provides an effective date of July 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 39.01 and 827.03.

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 Grall

29-00916-25 20251286__

A bill to be entitled

An act relating to harming or neglecting children; amending s. 39.01, F.S.; revising the definition of the term "harm" as it relates to a child's health or welfare; amending s. 827.03, F.S.; revising the definition of the term "neglect of a child"; reenacting ss. 390.01114(2)(b) and 984.03(2), F.S., relating to the definitions of the terms "child abuse" and "abuse," respectively, to incorporate the amendment made to s. 39.01, F.S., in references thereto; providing an effective date.

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

Section 1. Paragraphs (a) and (f) of subsection (37) of section 39.01, Florida Statutes, are amended to read:

39.01 Definitions.—When used in this chapter, unless the context otherwise requires:

(37) "Harm" to a child's health or welfare can occur when any person:

(a) Inflicts or allows to be inflicted upon the child physical, mental, or emotional injury. In determining whether harm has occurred, the following factors must be considered in evaluating any physical, mental, or emotional injury to a child: the age of the child; any prior history of injuries to the child; the location of the injury on the body of the child; the multiplicity of the injury; and the type of trauma inflicted. Such injury includes, but is not limited to:

1. Willful acts that produce the following specific

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injuries:

a. Sprains, dislocations, or cartilage damage.

b. Bone or skull fractures.

c. Brain or spinal cord damage.

d. Intracranial hemorrhage or injury to other internal organs.

e. Asphyxiation, suffocation, or drowning.

f. Injury resulting from the use of a deadly weapon.

g. Burns or scalding.

h. Cuts, lacerations, punctures, or bites.

i. Permanent or temporary disfigurement.

j. Permanent or temporary loss or impairment of a body part or function.

As used in this subparagraph, the term "willful" refers to the intent to perform an action, not to the intent to achieve a result or to cause an injury.

2. Purposely giving a child poison, alcohol, drugs, or other substances that substantially affect the child's behavior, motor coordination, or judgment or that result in sickness or internal injury. For the purposes of this subparagraph, the term "drugs" means prescription drugs not prescribed for the child or not administered as prescribed, and controlled substances as outlined in Schedule I or Schedule II of s. 893.03.

3. Leaving a child without adult supervision or arrangement appropriate for the child's age or mental or physical condition, so that the child is unable to care for the child's own needs, is subjected to obvious danger of which the child's caregiver knew or should have known, ~~or another's basic needs~~ or is unable

to exercise reasonable ~~good~~ judgment to avoid serious harm to himself or others in responding to any kind of physical or emotional crisis. This subparagraph may not be construed to restrict a caregiver from allowing a child of sufficient maturity and physical condition from engaging in independent unsupervised activities, including, but not limited to, traveling to or from school or nearby locations by bicycle or on foot, playing outdoors, or remaining at home or any other location for a reasonable period of time, unless allowing such activities constitutes conduct that is so reckless as to endanger the health or safety of the child.

4. Inappropriate or excessively harsh disciplinary action that is likely to result in physical injury, mental injury as defined in this section, or emotional injury. The significance of any injury must be evaluated in light of the following factors: the age of the child; any prior history of injuries to the child; the location of the injury on the body of the child; the multiplicity of the injury; and the type of trauma inflicted. Corporal discipline may be considered excessive or abusive when it results in any of the following or other similar injuries:

a. Sprains, dislocations, or cartilage damage.

b. Bone or skull fractures.

c. Brain or spinal cord damage.

d. Intracranial hemorrhage or injury to other internal organs.

e. Asphyxiation, suffocation, or drowning.

f. Injury resulting from the use of a deadly weapon.

g. Burns or scalding.

h. Cuts, lacerations, punctures, or bites.

i. Permanent or temporary disfigurement.

j. Permanent or temporary loss or impairment of a body part or function.

k. Significant bruises or welts.

(f) Neglects the child. Within the context of the definition of "harm," the term "neglects the child" means that the parent or other person responsible for the child's welfare fails to supply the child with adequate food, clothing, shelter, or health care, although financially able to do so or although offered financial or other means to do so; however, the term does not include a caregiver allowing a child to engage in independent and unsupervised activities unless allowing such activities constitutes reckless conduct that endangers the health or safety of the child. Such independent and unsupervised activities include, but are not limited to, traveling to or from school or nearby locations by bicycle or on foot, playing outdoors, or remaining at home or any other location for a reasonable period of time. ~~However,~~ A parent or legal custodian who, by reason of the legitimate practice of religious beliefs, does not provide specified medical treatment for a child may not be considered abusive or neglectful for that reason alone, but such an exception does not:

1. Eliminate the requirement that such a case be reported to the department;

2. Prevent the department from investigating such a case; or

3. Preclude a court from ordering, when the health of the child requires it, the provision of medical services by a

physician, as defined in this section, or treatment by a duly accredited practitioner who relies solely on spiritual means for healing in accordance with the tenets and practices of a well-recognized church or religious organization.

Section 2. Paragraph (e) of subsection (1) of section 827.03, Florida Statutes, is amended to read:

827.03 Abuse, aggravated abuse, and neglect of a child; penalties.—

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

(e) "Neglect of a child" means:

1. A caregiver's willful failure or omission to provide a child with the care, supervision, and services necessary to maintain the child's physical and mental health, including, but not limited to, food, nutrition, clothing, shelter, supervision, medicine, and medical services that a prudent person would consider essential for the well-being of the child. The term does not include a caregiver allowing a child to engage in independent and unsupervised activities unless allowing such activities constitutes willful and wanton conduct that endangers the health or safety of the child. Such independent and unsupervised activities include, but are not limited to, traveling to or from school or nearby locations by bicycle or on foot, playing outdoors, or remaining at home or any other location for a reasonable period of time; or

2. A caregiver's failure to make a reasonable effort to protect a child from abuse, neglect, or exploitation by another person.

Except as otherwise provided in this section, neglect of a child

may be based on repeated conduct or on a single incident or omission that results in, or could reasonably be expected to result in, serious physical or mental injury, or a substantial risk of death, to a child.

Section 3. For the purpose of incorporating the amendment made by this act to section 39.01, Florida Statutes, in a reference thereto, paragraph (b) of subsection (2) of section 390.01114, Florida Statutes, is reenacted to read:

390.01114 Parental Notice of and Consent for Abortion Act.—

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

(b) "Child abuse" means abandonment, abuse, harm, mental injury, neglect, physical injury, or sexual abuse of a child as those terms are defined in ss. 39.01, 827.04, and 984.03.

Section 4. For the purpose of incorporating the amendment made by this act to section 39.01, Florida Statutes, in a reference thereto, subsection (2) of section 984.03, Florida Statutes, is reenacted to read:

984.03 Definitions.—When used in this chapter, the term:

(2) "Abuse" means any willful act that results in any physical, mental, or sexual injury that causes or is likely to cause the child's physical, mental, or emotional health to be significantly impaired. Corporal discipline of a child by a parent or guardian for disciplinary purposes does not in itself constitute abuse when it does not result in harm to the child as defined in s. 39.01.

Section 5. This act shall take effect July 1, 2025.

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 1318
INTRODUCER:	Senators Grall and Davis
SUBJECT:	Hands-free Driving
DATE:	March 31, 2025
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Shutes	Vickers	TR	**Favorable**
2.	Wells	Nortelus	ATD	**Favorable**
3.	Shutes	Yeatman	RC	**Pre-meeting**

I. Summary:

SB 1318 renames the Florida Ban on Texting While Driving Law to the Florida Hands-Free Driving Law and expands the prohibition to include using, while driving, a wireless communications device in a handheld manner except to activate, deactivate, initiate, or terminate a feature or function of the device, including a hands-free accessory. The bill provides that sustained use of a wireless communications device by a person operating a vehicle must be conducted through a hands-free accessory until such use is terminated. It defines certain terms, including handheld manner, hands-free accessory, and wireless communications device.

The bill repeals certain provisions that are no longer necessary relating to the ban of a wireless communications device in school and work zones. It provides that in work zones where personnel are present operating equipment, a law enforcement officer must indicate in the comment of the uniform traffic citation the type of wireless communications device that was used to commit the violation and must, in accordance with current requirements in law, provide this information to the Department of Highway Safety and Motor Vehicles for their annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

The bill may have an indeterminate fiscal impact on state and local governments and the private sector. **See Section V. Fiscal Analysis Section.**

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

II. Present Situation:

Florida Ban on Texting While Driving Law

The legislative intent of the "Florida Ban on Texting While Driving Law" is to:

- Improve roadway safety for all vehicle operators, vehicle passengers, bicyclists, pedestrians, and other road users;
- Prevent crashes related to the act of text messaging while driving a motor vehicle;
- Reduce injuries, deaths, property damage, health care costs, health insurance rates, and automobile insurance rates related to motor vehicle crashes; and
- Authorize law enforcement officers to stop motor vehicles and issue citations to persons who are texting while driving.[1]

Prohibition

The Florida Ban on Texting While Driving Law prohibits a person from operating a motor vehicle while manually typing or entering multiple letters, numbers, symbols, or other characters into a wireless communications device or while sending or reading data on such a device for the purpose of nonvoice interpersonal communication, including, but not limited to, communication methods known as texting, e-mailing, and instant messaging.[2] The term "wireless communications device" is defined as any handheld device used or capable of being used in a handheld manner, that is designed or intended to receive or transmit text or character-based messages, access or store data, or connect to the Internet or any communications service and that allows text communications.[3]

A motor vehicle that is stationary is not being operated and, therefore, is not subject to this prohibition.[4] Additionally, the prohibition does not apply to a motor vehicle operator who is:

- Performing official duties as an operator of an authorized emergency vehicle, a law enforcement or fire service professional, or an emergency medical services professional;
- Reporting an emergency or criminal or suspicious activity to law enforcement authorities;
- Receiving messages that are related to the operation or navigation of the motor vehicle; safety-related information, including emergency, traffic, or weather alerts; data used primarily by the motor vehicle; or radio broadcasts;
- Using a device or system for navigation purposes;
- Conducting wireless interpersonal communication that does not require manual entry of multiple letters, numbers, or symbols, except to activate, deactivate, or initiate a feature or function;
- Conducting wireless interpersonal communication that does not require reading text messages, except to activate, deactivate, or initiate a feature or function; and
- Operating an autonomous vehicle with the automated driving system engaged.[5]

[1] Section 316.305(2), F.S.
[2] Section 316.305(3)(a), F.S.
[3] *Id.*
[4] *Id.*
[5] Section 316.305(3)(b), F.S.

Enforcement and Penalties

A law enforcement officer who stops a motor vehicle for a violation of the Florida Ban on Texting While Driving Law must inform the motor vehicle operator of his or her right to decline a search of his or her wireless communications device and may not:

- Access the wireless communications device without a warrant;
- Confiscate the wireless communications device while awaiting issuance of a warrant to access such device; and
- Obtain consent from the motor vehicle operator to search his or her wireless communications device through coercion or other improper method. Consent to search a motor vehicle operator's wireless communications device must be voluntary and unequivocal.[6]

A first violation of the ban on texting while driving is punishable as a nonmoving violation and carries a $30 fine plus court costs,[7] which could result in a total fine up to $108.[8] A second or subsequent violation of the ban committed within five years after the date of a prior conviction is a moving violation and carries a $60 fine plus court costs,[9] which could result in a total fine up to $158.[10]

Data Collection and Reporting Requirement

When a law enforcement officer issues a citation for a violation of the Florida Ban on Texting While Driving Law, the law enforcement officer must record the race and ethnicity of the violator. All law enforcement agencies must maintain such information and report the information to the Department of Highway Safety and Motor Vehicles (DHSMV) by April 1 annually in a form and manner determined by the DHSMV. The DHSMV must annually report the data collected to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The data collected must be reported at least by statewide totals for local law enforcement agencies, state law enforcement agencies, and state university law enforcement agencies. The statewide total for local law enforcement agencies must combine the data for the county sheriffs and the municipal law enforcement agencies.[11]

Ban on the Use of Wireless Communications Devices in a Handheld Manner in School and Work Zones

Prohibition and Enforcement

In addition to the ban on texting while driving, law enforcement officers are authorized to stop motor vehicles and issue citations to persons who are driving in a designated school crossing,

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[6] Section 316.305(3)(c), F.S.
[7] Section 316.305(4)(a), F.S. *See also* ch. 318, F.S.
[8] Florida Court Clerks and Comptrollers, *2023 Distribution Schedule of Court-Related Filing Fees, Service Charges, Costs and Fines, Including a Fee Schedule for Recording*, p. 39, https://cdn.ymaws.com/www.flclerks.com/resource/resmgr/publicationsanddocuments/2023_Distribution_Schedule_e.pdf (last visited March 6, 2025).
[9] Section 316.305(4)(b), F.S. *See also* Ch. 318, F.S.
[10] Florida Court Clerks and Comptrollers, *supra* note 8, at p. 42.
[11] Section 316.305(5), F.S.

school zone, or work zone area[12][13] while using a wireless communications device in a handheld manner.[14] Wireless communications device has the same meaning aforementioned for the Florida Ban on Texting While Driving Law and includes, but is not limited to, a cell phone, a tablet, a laptop, two-way messaging device, or an electronic game that is used or capable of being used in a handheld manner.[15]

The ban on the use of wireless communications devices in a handheld manner in school and work zones has almost identical exceptions and enforcement procedures as the Florida Ban on Texting While Driving Law.[16] However, the ban on the use of a wireless communications device in a handheld manner in school and work zones expressly allows the use of a wireless communications device if it is operated in a hands-free or hands-free in voice-operated mode, including, but not limited to, a factory-installed or after-market Bluetooth device while driving.[17]

Penalties

A first violation of the ban on the use of wireless communications devices in a handheld manner in school and work zones is punishable as a noncriminal traffic infraction, punishable as a moving violation,[18] and a violator will have 3 points assessed against his or her driver license.[19] For a first offense, in lieu of the $60 fine, additional court costs, and the assessment of points, a person may elect to participate in a wireless communications device driving safety program approved by the DHSMV. Upon completion of such program, the penalty and associated costs may be waived by the clerk of the court and the assessment of points must be waived.[20]

Additionally, the clerk of the court may dismiss a case and assess court costs for a nonmoving traffic infraction for a person who is cited for a first-time violation of this section if the person shows the clerk proof of purchase of equipment that enables his or her personal wireless communications device to be used in a hands-free manner.[21] All the proceeds collected from such penalties must be remitted to the Department of Revenue for deposit into the Emergency Medical Services Trust Fund of the Department of Health.[22]

Data Collection and Reporting Requirement

When a law enforcement officer issues a citation for a violation of the ban on the use of wireless communications device in a handheld manner in school and work zones, the law enforcement officer must record the race and ethnicity of the violator. All law enforcement agencies must

[12] Section 316.003(111), F.S., defines work zone as the area and its approaches on any state-maintained highway, county-maintained highway, or municipal street where construction, repair, maintenance, or other street-related or highway-related work is being performed or where one or more lanes are closed to traffic.
[13] Section 316.306(3)(a), F.S., provides that the prohibition on work zone areas is only applicable if the construction personnel are present or are operating equipment on the road or immediately adjacent to the work zone area.
[14] Sections 316.306(2) and 316.306(3)(a), F.S.
[15] Section 316.306(1), F.S.
[16] Section 316.306(3), F.S.
[17] *Id.*
[18] Chapter 318, F.S., provides that such violation carries a $60 fine plus court costs.
[19] Section 316.306(4)(a), F.S.
[20] *Id.*
[21] Section 316.306(4)(b), F.S.
[22] Section 316.306(5), F.S.

maintain such information and must report such information to the DHSMV in a form and manner determined by the DHSMV. The DHSMV must annually report the data collected to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The data collected must be reported at least by statewide totals for local law enforcement agencies, state law enforcement agencies, and state university law enforcement agencies. The statewide total for local law enforcement agencies must combine the data for the county sheriffs and the municipal law enforcement agencies.[23]

III. Effect of Proposed Changes:

Expanding the Florida Ban on Texting While Driving Law

The bill renames the Florida Ban on Texting While Driving Law to the Florida Hands-Free Driving Law and expands the prohibition to include using, while driving, a wireless communications device in a handheld manner except to activate, deactivate, initiate, or terminate a feature or function of the device, including a hands-free accessory. The bill provides that sustained use of a wireless communications device by a person operating a vehicle must be conducted through a hands-free accessory until such use is terminated.

The bill defines the following terms in order to expand the prohibition:

- Handheld manner: Holding a wireless communications device in one or both hands or physically supporting the device with any other part of the body.
- Hands-free accessory: An attachment to or built-in feature of a wireless communications device which allows the operator of a motor vehicle to engage in interpersonal communication or otherwise use such device other than in a handheld manner.
- Wireless communications device: A handheld device used or capable of being used in a handheld manner to transmit or receive a voice message; initiate, receive, or maintain a telephone call; or otherwise engage in interpersonal voice communication; receive or transmit text-based or character-based messages or otherwise engage in interpersonal nonvoice communication; record or display videos or images; enter, access, or store data; or connect to the Internet or any communications service. The term includes, but is not limited to, a cellular telephone, smartphone, tablet computer, laptop computer, two-way messaging device, electronic gaming device, or device capable of displaying videos or images. The term does not include a citizens band radio, citizens band radio hybrid, commercial two-way radio communication device or its functional equivalent, subscription-based emergency communications device, prescribed medical device, amateur or ham radio device, or in-vehicle security, navigation, communications, or remote diagnostics system.

The bill maintains most of the existing exceptions to the prohibition on texting, including the exception for a motor vehicle that is stationary and, therefore, not being operated. However, the bill eliminates the exception for using a device or system for navigation purposes.[24]

[23] Section 316.306(6), F.S.

[24] The bill maintains the current exception for receiving messages that are related to the operation or navigation of the motor vehicle.

Use of Wireless Communications Device in a Handheld Manner in School and Work Zones

The bill amends the prohibition found in the Florida Ban on Texting While Driving Law to ban the use of a wireless communications device in a handheld manner while driving. As such, because the ban would no longer be unique to school and work zones, the bill repeals certain statutory provisions that are no longer necessary.

However, the bill maintains the provisions of law that outline the penalties, data collection, and report requirements for a person who violates the use of a wireless communications device in a handheld manner while driving in a designated work zone area, if construction personnel are present or are operating equipment on the road or immediately adjacent to the work area.

A person who violates the use of a wireless communications device in a handheld manner while driving in a designated work zone area, commits a noncriminal traffic infraction, punishable as a moving violation, and subject to the following penalties:

- First offense shall pay a fine of $150 and have three points assessed to their driver license;
- Second offense shall pay a fine of $250 and have three points assessed to their driver license;
- Third offense shall pay a fine of $500 and have four points assessed to their driver license and have his or her driver license suspended for 90 days.

Additionally, the bill provides that when a law enforcement officer issues a citation in a work zone to a person who violated the use of a wireless communications device while driving, the law enforcement officer must indicate in the comment section of the uniform traffic citation the type of wireless communications device that was used to commit the violation. In accordance with current requirements in law, this information must be provided to the DHSMV for their annual report to the Governor, President of the Senate, and Speaker of the House of Representatives.

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The changes in the laws regarding the use of wireless communications devices while driving may result in more motorists being assessed traffic fines.

C. Government Sector Impact:

The bill may increase state and local government revenues to the extent there is an increase in the number of traffic citations issued due to changes in the law regarding the use of wireless communications devices while driving. However, the fiscal impact cannot be quantified and is therefore indeterminate.

The DHSMV estimates it will incur $38,995 in IT programming and implementation costs.[25] In addition, the DHSMV may incur expenses related to public awareness and educational efforts regarding the changes in the laws regarding the use of wireless communication devices while driving. However, the department reports that these costs can likely be absorbed within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 316.305 and 316.306.

IX. Additional Information:

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

None.

[25] Email from Jonas Marquez, Director of Legislative Affairs, Department of Highway Safety and Motor Vehicles, RE: SB 1318 Fiscal Impact, regarding IT impacts for programming costs (March 10, 2025)

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate . House

. . . . .

The Committee on Rules (Grall) recommended the following:

Senate Amendment

Delete lines 166 - 251

and insert:

operating equipment or in a school zone while flashing beacons are activated.—

(1) ~~For purposes of this section, the term "wireless communications device" has the same meaning as provided in s. 316.305(3)(a). The term includes, but is not limited to, a cell phone, a tablet, a laptop, a two-way messaging device, or an electronic game that is used or capable of being used in a~~

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~~handheld manner. The term does not include a safety, security, or convenience feature built into a motor vehicle which does not require the use of a handheld device.~~

~~(2) It is the intent of the Legislature to:~~

~~(a) Improve roadway safety in school and work zones for all vehicle operators, vehicle passengers, bicyclists, pedestrians, and other road users.~~

~~(b) Prevent crashes related to the act of driving while using a wireless communications device in a handheld manner when operating a motor vehicle while the vehicle is in motion.~~

~~(c) Reduce injuries, deaths, property damage, health care costs, health insurance rates, and automobile insurance rates related to motor vehicle crashes.~~

~~(d) Authorize law enforcement officers to stop motor vehicles and issue citations to persons who are driving in school or work zones while using a wireless communications device in a handheld manner as provided in subsection (3).~~

~~(3)(a)1. A person may not operate a motor vehicle while using a wireless communications device in a handheld manner in a designated school crossing, school zone, or work zone area as defined in s. 316.003(112). This subparagraph shall only be applicable to work zone areas if construction personnel are present or are operating equipment on the road or immediately adjacent to the work zone area. For the purposes of this paragraph, a motor vehicle that is stationary is not being operated and is not subject to the prohibition in this paragraph.~~

~~2. Effective January 1, 2020, a law enforcement officer may stop motor vehicles and issue citations to persons who are~~

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~~driving while using a wireless communications device in a handheld manner in violation of subparagraph 1.~~

~~(b) Paragraph (a) does not apply to a motor vehicle operator who is:~~

~~1. Performing official duties as an operator of an authorized emergency vehicle as defined in s. 322.01, a law enforcement or fire service professional, or an emergency medical services professional.~~

~~2. Reporting an emergency or criminal or suspicious activity to law enforcement authorities.~~

~~3. Receiving messages that are:~~

~~a. Related to the operation or navigation of the motor vehicle;~~

~~b. Safety-related information, including emergency, traffic, or weather alerts;~~

~~c. Data used primarily by the motor vehicle; or~~

~~d. Radio broadcasts.~~

~~4. Using a device or system in a hands-free manner for navigation purposes.~~

~~5. Using a wireless communications device hands-free or hands-free in voice-operated mode, including, but not limited to, a factory-installed or after-market Bluetooth device.~~

~~6. Operating an autonomous vehicle, as defined in s. 316.003, in autonomous mode.~~

~~(c) A law enforcement officer who stops a motor vehicle for a violation of paragraph (a) must inform the motor vehicle operator of his or her right to decline a search of his or her wireless communications device and may not:~~

~~1. Access the wireless communications device without a~~

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~~warrant.~~

~~2. Confiscate the wireless communications device while awaiting issuance of a warrant to access such device.~~

~~3. Obtain consent from the motor vehicle operator to search his or her wireless communications device through coercion or other improper method. Consent to search a motor vehicle operator's wireless communications device must be voluntary and unequivocal.~~

~~(d) Only in the event of a crash resulting in death or serious bodily injury, as defined in s. 316.027, may a user's billing records for a wireless communications device, or the testimony of or written statements from appropriate authorities receiving such messages, be admissible as evidence in any proceeding to determine whether a violation of subparagraph (a)1. has been committed.~~

~~(e) Law enforcement officers must indicate the type of wireless communications device in the comment section of the uniform traffic citation.~~

~~(4)(a)~~ A ~~Any~~ person who violates s. 316.305(4)(a) on any roadway when construction personnel are present or are operating equipment on the road or immediately adjacent to the work zone area, or in a school zone during periods in which the restrictive speed limit is enforced and flashing beacons are activated, ~~this section~~ commits a noncriminal traffic infraction,

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LEGISLATIVE ACTION

Senate . House

. . . . .

The Committee on Rules (Grall) recommended the following:

Senate Amendment (with title amendment)

Delete line 301
and insert:
Section 3. Subsection (5) of section 318.14, Florida Statutes, is amended to read:
318.14 Noncriminal traffic infractions; exception; procedures.—
(5)(a) Any person electing to appear before the designated official or who is required to appear is ~~shall be~~ deemed to have waived his or her right to the civil penalty provisions of s.

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318.18. The official, after a hearing, shall make a determination as to whether an infraction has been committed. If the commission of an infraction has been proven, the official may impose a civil penalty not to exceed $500, except that in cases involving unlawful speed in a school zone or involving unlawful speed in a construction zone, the civil penalty may not exceed $1,000; or require attendance at a driver improvement school, or both.

(b)1. If the person is required to appear before the designated official pursuant to s. 318.19(1) and is found to have committed the infraction, the designated official must ~~shall~~ impose a civil penalty of $1,000 in addition to any other penalties and the person's driver license shall be suspended for 6 months.

2. If the person is required to appear before the designated official pursuant to s. 318.19(1) and is found to have committed the infraction against a vulnerable road user as defined in s. 316.027(1), the designated official must ~~shall~~ impose a civil penalty of not less than $5,000 in addition to any other penalties, the person's driver license must ~~shall~~ be suspended for 1 year, and the person must ~~shall~~ be required to attend a department-approved driver improvement course relating to the rights of vulnerable road users relative to vehicles on the roadway as provided in s. 322.0261(2).

(c)1. If the person is required to appear before the designated official pursuant to s. 318.19(2) and is found to have committed the infraction, the designated official must ~~shall~~ impose a civil penalty of $500 in addition to any other penalties and the person's driver license must ~~shall~~ be

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suspended for 3 months.

2. If the person is required to appear before the designated official pursuant to s. 318.19(2) and is found to have committed the infraction against a vulnerable road user as defined in s. 316.027(1), the designated official must ~~shall~~ impose a civil penalty of not less than $1,500 in addition to any other penalties, the person's driver license must ~~shall~~ be suspended for 3 months, and the person must ~~shall~~ be required to attend a department-approved driver improvement course relating to the rights of vulnerable road users relative to vehicles on the roadway as provided in s. 322.0261(2).

(d) If the person is required to appear before the designated official pursuant to s. 318.19(6) and is found to have committed an infraction of s. 316.075(1)(c) or s. 316.123(2):

1. Except as provided in subparagraphs 2. and 3., the designated official must impose a civil penalty of $500 in addition to any other penalties.

2. A second time, the designated official must impose a civil penalty of $1,000 in addition to any other penalties and the person's driver license must be suspended for 6 months.

3. A third or subsequent time, the designated official must impose a civil penalty of $1,000 in addition to any other penalties and the person's driver license must be suspended for 1 year.

(e) If the official determines that no infraction has been committed, no costs or penalties may ~~shall~~ be imposed and any costs or penalties that have been paid must ~~shall~~ be returned.

(f) Moneys received from the mandatory civil penalties

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imposed pursuant to this subsection upon persons required to appear before a designated official pursuant to s. 318.19(1), (2), or (6) ~~s. 318.19(1) or (2)~~ shall be remitted to the Department of Revenue and deposited into the Department of Health Emergency Medical Services Trust Fund to provide financial support to certified trauma centers to assure the availability and accessibility of trauma services throughout the state. Funds deposited into the Emergency Medical Services Trust Fund under this section shall be allocated as follows:

1.~~(a)~~ Fifty percent shall be allocated equally among all Level I, Level II, and pediatric trauma centers in recognition of readiness costs for maintaining trauma services.

2.~~(b)~~ Fifty percent shall be allocated among Level I, Level II, and pediatric trauma centers based on each center's relative volume of trauma cases as calculated using the hospital discharge data collected pursuant to s. 408.061.

Section 4. Section 318.19, Florida Statutes, is amended to read:

318.19 Infractions requiring a mandatory hearing.—Any person cited for the infractions listed in this section does ~~shall~~ not have the provisions of s. 318.14(2), (4), and (9) available to him or her but must appear before the designated official at the time and location of the scheduled hearing:

(1) Any infraction which results in a crash that causes the death of another;

(2) Any infraction which results in a crash that causes "serious bodily injury" of another as defined in s. 316.1933(1);

(3) Any infraction of s. 316.172(1)(b);

(4) Any infraction of s. 316.520(1) or (2); ~~or~~

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(5) Any infraction of s. 316.183(2), s. 316.187, or s. 316.189 of exceeding the speed limit by 30 mph or more; or

(6) Any infraction of s. 316.075(1)(c) or s. 316.123(2) which results in a crash with another vehicle as defined in s. 316.003.

Section 5. This act shall take effect October 1, 2025.

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

And the title is amended as follows:

Delete lines 2 - 16

and insert:

An act relating to traffic offenses; amending s. 316.305, F.S.; revising a short title; revising legislative intent; defining terms; prohibiting a person from operating a motor vehicle while using a wireless communications device in a handheld manner; providing an exception; requiring that sustained use of a wireless communications device by a person operating a motor vehicle be conducted through a hands-free accessory until such use is terminated; revising exceptions to the prohibition; removing obsolete provisions; providing penalties; amending s. 316.306, F.S.; revising penalty provisions relating to the use of wireless communications devices in a handheld manner in certain circumstances; conforming provisions to changes made by the act; amending s. 318.14, F.S.; requiring the imposition of specified civil penalties and periods of driver license suspension, in addition to any other penalties, on a

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person found at a mandatory hearing to have committed certain traffic infractions that resulted in a crash with another vehicle; amending s. 318.19, F.S.; requiring persons cited for specified infractions that result in a crash with another vehicle to appear at a certain mandatory hearing; providing an

By Senator Grall

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A bill to be entitled

An act relating to hands-free driving; amending s. 316.305, F.S.; revising a short title; revising legislative intent; defining terms; prohibiting a person from operating a motor vehicle while using a wireless communications device in a handheld manner; providing an exception; requiring that sustained use of a wireless communications device by a person operating a motor vehicle be conducted through a hands-free accessory until such use is terminated; revising exceptions to the prohibition; removing obsolete provisions; providing penalties; amending s. 316.306, F.S.; revising penalty provisions relating to the use of wireless communications devices in a handheld manner in certain circumstances; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Section 316.305, Florida Statutes, is amended to read:

316.305 Wireless communications devices; use in a handheld manner prohibited ~~prohibition~~.—

(1) This section may be cited as the "Florida Hands-Free ~~Ban on Texting While~~ Driving Law."

(2) It is the intent of the Legislature to:

(a) Improve roadway safety for all vehicle operators, vehicle passengers, bicyclists, pedestrians, and other road

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users.

(b) Prevent crashes related to the use of a wireless communications device in a handheld manner ~~act of text messaging~~ while driving a motor vehicle.

(c) Reduce injuries, deaths, property damage, health care costs, health insurance rates, and automobile insurance rates related to motor vehicle crashes.

(d) Authorize law enforcement officers to stop motor vehicles and issue citations to persons who are using wireless communications devices in a handheld manner ~~texting~~ while driving.

(3) As used in this section, the term:

(a) "Handheld manner" means holding a wireless communications device in one or both hands or physically supporting the device with any other part of the body.

(b) "Hands-free accessory" means an attachment to or a built-in feature of a wireless communications device which allows the operator of a motor vehicle to engage in interpersonal communication or otherwise use such device other than in a handheld manner.

(c) "Wireless communications device":

1. Means a handheld device used or capable of being used in a handheld manner to:

a. Transmit or receive a voice message; initiate, receive, or maintain a telephone call; or otherwise engage in interpersonal voice communication;

b. Receive or transmit text-based or character-based messages or otherwise engage in interpersonal nonvoice communication;

c. Record or display videos or images;

d. Enter, access, or store data; or

e. Connect to the Internet or any communications service as defined in s. 812.15(1).

2. Includes, but is not limited to, a cellular telephone, smartphone, tablet computer, laptop computer, two-way messaging device, electronic gaming device, or device capable of displaying videos or images. The term does not include a citizens band radio, a citizens band radio hybrid, a commercial two-way radio communications device or its functional equivalent, a subscription-based emergency communications device, a prescribed medical device, an amateur or ham radio device, or an in-vehicle security, navigation, communications, or remote diagnostics system.

(4)(a) ~~(3)(a)~~ A person may not operate a motor vehicle while using ~~manually typing or entering multiple letters, numbers, symbols, or other characters into~~ a wireless communications device in a handheld manner except to activate, deactivate, initiate, or terminate a feature or function of the device, including a hands-free accessory. Sustained use of a wireless communications device by a person operating a motor vehicle must be conducted through a hands-free accessory until such use is terminated. ~~or while sending or reading data on such a device for the purpose of nonvoice interpersonal communication, including, but not limited to, communication methods known as texting, e-mailing, and instant messaging. As used in this section, the term "wireless communications device" means any handheld device used or capable of being used in a handheld manner, that is designed or intended to receive or transmit text~~

~~or character-based messages, access or store data, or connect to the Internet or any communications service as defined in s. 812.15 and that allows text communications. For the purposes of this paragraph,~~ A motor vehicle that is stationary is not being operated and is not subject to the prohibition in this paragraph.

(b) Paragraph (a) does not apply to a motor vehicle operator who is:

1. Performing official duties as an operator of an authorized emergency vehicle as defined in s. 322.01, a law enforcement or fire service professional, or an emergency medical services professional.

2. Reporting an emergency or criminal or suspicious activity to law enforcement authorities.

3. Receiving messages that are:

a. Related to the operation or navigation of the motor vehicle;

b. Safety-related information, including emergency, traffic, or weather alerts;

c. Data used primarily by the motor vehicle; or

d. Radio broadcasts.

4. ~~Using a device or system for navigation purposes.~~

5. ~~Conducting wireless interpersonal communication that does not require manual entry of multiple letters, numbers, or symbols, except to activate, deactivate, or initiate a feature or function.~~

6. ~~Conducting wireless interpersonal communication that does not require reading text messages, except to activate, deactivate, or initiate a feature or function.~~

~~7.~~ Operating an autonomous vehicle, as defined in s. 316.003(3), with the automated driving system engaged.

(c) A law enforcement officer who stops a motor vehicle for a violation of paragraph (a) must inform the motor vehicle operator of his or her right to decline a search of his or her wireless communications device and may not:

1. Access the wireless communications device without a warrant.

2. Confiscate the wireless communications device while awaiting issuance of a warrant to access such device.

3. Obtain consent from the motor vehicle operator to search his or her wireless communications device through coercion or other improper method. Consent to search a motor vehicle operator's wireless communications device must be voluntary and unequivocal.

(d) Only in the event of a crash resulting in death or personal injury, a user's billing records for a wireless communications device or the testimony of or written statements from appropriate authorities receiving such messages may be admissible as evidence in any proceeding to determine whether a violation of paragraph (a) has been committed.

(5)(a) ~~(4)(a)~~ A ~~Any~~ person who violates paragraph (4)(a) ~~(3)(a)~~ commits a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

(b) A ~~Any~~ person who commits a second or subsequent violation of paragraph (4)(a) ~~(3)(a)~~ within 5 years after the date of a prior conviction for a violation of paragraph (4)(a) ~~(3)(a)~~ commits a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

(6) ~~(5)~~ When a law enforcement officer issues a citation for a violation of this section, the law enforcement officer must record the race and ethnicity of the violator. All law enforcement agencies must maintain such information and report the information to the department by April 1 annually in a form and manner determined by the department. Beginning July 1, 2023, the department shall annually report the data collected under this subsection to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The data collected must be reported at least by statewide totals for local law enforcement agencies, state law enforcement agencies, and state university law enforcement agencies. The statewide total for local law enforcement agencies shall combine the data for the county sheriffs and the municipal law enforcement agencies.

Section 2. Section 316.306, Florida Statutes, is amended to read:

316.306 Penalties for ~~School and work zones; prohibition on the~~ use of a wireless communications device in a handheld manner on any roadway when construction personnel are present or operating equipment.—

(1) ~~For purposes of this section, the term "wireless communications device" has the same meaning as provided in s. 316.305(3)(a). The term includes, but is not limited to, a cell phone, a tablet, a laptop, a two-way messaging device, or an electronic game that is used or capable of being used in a handheld manner. The term does not include a safety, security, or convenience feature built into a motor vehicle which does not require the use of a handheld device.~~

~~(2) It is the intent of the Legislature to:~~

~~(a) Improve roadway safety in school and work zones for all vehicle operators, vehicle passengers, bicyclists, pedestrians, and other road users.~~

~~(b) Prevent crashes related to the act of driving while using a wireless communications device in a handheld manner when operating a motor vehicle while the vehicle is in motion.~~

~~(c) Reduce injuries, deaths, property damage, health care costs, health insurance rates, and automobile insurance rates related to motor vehicle crashes.~~

~~(d) Authorize law enforcement officers to stop motor vehicles and issue citations to persons who are driving in school or work zones while using a wireless communications device in a handheld manner as provided in subsection (3).~~

~~(3)(a)1. A person may not operate a motor vehicle while using a wireless communications device in a handheld manner in a designated school crossing, school zone, or work zone area as defined in s. 316.003(112). This subparagraph shall only be applicable to work zone areas if construction personnel are present or are operating equipment on the road or immediately adjacent to the work zone area. For the purposes of this paragraph, a motor vehicle that is stationary is not being operated and is not subject to the prohibition in this paragraph.~~

~~2. Effective January 1, 2020, a law enforcement officer may stop motor vehicles and issue citations to persons who are driving while using a wireless communications device in a handheld manner in violation of subparagraph 1.~~

~~(b) Paragraph (a) does not apply to a motor vehicle~~

~~operator who is:~~

~~1. Performing official duties as an operator of an authorized emergency vehicle as defined in s. 322.01, a law enforcement or fire service professional, or an emergency medical services professional.~~

~~2. Reporting an emergency or criminal or suspicious activity to law enforcement authorities.~~

~~3. Receiving messages that are:~~

~~a. Related to the operation or navigation of the motor vehicle;~~

~~b. Safety-related information, including emergency, traffic, or weather alerts;~~

~~c. Data used primarily by the motor vehicle; or~~

~~d. Radio broadcasts.~~

~~4. Using a device or system in a hands-free manner for navigation purposes.~~

~~5. Using a wireless communications device hands-free or hands-free in voice-operated mode, including, but not limited to, a factory-installed or after-market Bluetooth device.~~

~~6. Operating an autonomous vehicle, as defined in s. 316.003, in autonomous mode.~~

~~(c) A law enforcement officer who stops a motor vehicle for a violation of paragraph (a) must inform the motor vehicle operator of his or her right to decline a search of his or her wireless communications device and may not:~~

~~1. Access the wireless communications device without a warrant.~~

~~2. Confiscate the wireless communications device while awaiting issuance of a warrant to access such device.~~

~~3. Obtain consent from the motor vehicle operator to search his or her wireless communications device through coercion or other improper method. Consent to search a motor vehicle operator's wireless communications device must be voluntary and unequivocal.~~

~~(d) Only in the event of a crash resulting in death or serious bodily injury, as defined in s. 316.027, may a user's billing records for a wireless communications device, or the testimony of or written statements from appropriate authorities receiving such messages, be admissible as evidence in any proceeding to determine whether a violation of subparagraph (a)1. has been committed.~~

~~(c) Law enforcement officers must indicate the type of wireless communications device in the comment section of the uniform traffic citation.~~

~~(4)(a)~~ A ~~Any~~ person who violates s. 316.305(4)(a) on any roadway when construction personnel are present or are operating equipment on the road or immediately adjacent to the work zone area ~~this section~~ commits a noncriminal traffic infraction, punishable as a moving violation~~,~~ as provided in chapter 318, and shall pay a fine of $150 and have 3 points assessed against his or her driver license. A person who commits a second violation shall pay a fine of $250 and have 3 points assessed against his or her driver license. A person who commits a third violation shall pay a fine of $500, have 4 points assessed against his or her driver license, and have his or her driver license suspended for 90 days~~, and shall have 3 points assessed against his or her driver license as set forth in s. 322.27(3)(d)8~~.

(a) For a first violation ~~offense under this section~~, in lieu of the penalty ~~specified in s. 318.18~~ and the assessment of points, a person ~~who violates this section~~ may elect to participate in a wireless communications device driving safety program approved by the Department of Highway Safety and Motor Vehicles. Upon completion of such program, the penalties ~~penalty~~ specified in this section and s. 318.18 and associated costs may be waived by the clerk of the court and the assessment of points must be waived.

(b) The clerk of the court may dismiss a case and assess court costs in accordance with s. 318.18(12)(a) for a nonmoving traffic infraction for a person who is cited for a first ~~time~~ violation ~~of this section~~ if the person shows the clerk proof of purchase of equipment that enables his or her personal wireless communications device to be used in a hands-free manner.

(2)~~(5)~~ Notwithstanding s. 318.21, all proceeds collected pursuant to s. 318.18 for violations under ~~of~~ this section must be remitted to the Department of Revenue for deposit into the Emergency Medical Services Trust Fund of the Department of Health.

(3)~~(6)~~ When a law enforcement officer issues a citation for a violation under ~~of~~ this section, the law enforcement officer must:

(a) Indicate in the comment section of the uniform traffic citation the type of wireless communications device that was used to commit the violation.

(b) Record the race and ethnicity of the violator. All law enforcement agencies must maintain such information and must report such information to the department in a form and manner

determined by the department. Beginning February 1, 2020, the department shall annually report the data collected under this paragraph ~~subsection~~ to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The data collected must be reported at least by statewide totals for local law enforcement agencies, state law enforcement agencies, and state university law enforcement agencies. The statewide total for local law enforcement agencies is a combination of ~~must combine~~ the data for the county sheriffs and the municipal law enforcement agencies.

Section 3. This act shall take effect July 1, 2025.

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 1370
INTRODUCER:	Senator Trumbull
SUBJECT:	Ambulatory Surgical Centers
DATE:	March 31, 2025
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Brown	HP	**Favorable**
2.	Barr	McKnight	AHS	**Favorable**
3.	Looke	Yeatman	RC	**Pre-meeting**

I. Summary:

SB 1370 amends numerous sections of the Florida Statutes to remove regulation of ambulatory surgical centers (ASC) from Part I of ch. 395, F.S., which currently houses regulations for both ASCs and hospitals, and creates a new chapter, ch. 396, F.S., specific to the regulation of ASCs. The bill also specifies that it is the intent of the Legislature to bifurcate all fees and public records exemptions related to ASCs established in ch. 395, F.S., and transfer those fees to, and preserve such public records exemptions under, ch. 396, F.S.

This bill has no fiscal impact on state revenues or expenditures. **See Section V., Fiscal Impact Statement.**

The bill takes effect July 1, 2025.

II. Present Situation:

Ambulatory Surgical Centers

An ambulatory surgical center (ASC) is a licensed health care facility that is not part of a hospital and has the primary purpose of providing elective surgical care. A patient is admitted to and discharged from the facility within 24 hours.[1] ASCs are required to be licensed by the Agency for Health Care Administration (AHCA) and may choose to be Medicare certified and/or accredited.[2]

[1] Agency for Health Care Administration, Ambulatory Surgical Center, available at https://ahca.myflorida.com/health-quality-assurance/bureau-of-health-facility-regulation/hospital-outpatient-services-unit/ambulatory-surgical-center, (last visited Mar. 13, 2025).
[2] *Id.*

Licensure

ASCs are licensed and regulated under ch. 395, F.S., by the AHCA under the same regulatory framework as hospitals.[3] Applicants for ASC licensure are required to submit certain information to the AHCA prior to accepting patients for care or treatment, including:

- An affidavit of compliance with fictitious name;
- Registration of articles of incorporation; and
- The applicant's zoning certificate or proof of compliance with zoning requirements.[4]

Upon receipt of an initial ASC application, the AHCA is required to conduct a survey to determine compliance with all laws and rules. Applicants are required to provide certain information during the initial inspection, including:

- Governing body bylaws, rules, and regulations;
- Medical staff bylaws, rules, and regulations;
- A roster of medical staff members;
- A roster of registered nurses and licensed practical nurses with current license numbers;
- A nursing procedure manual;
- A fire plan; and
- A comprehensive emergency management plan.[5]

The licensure fee is $1,679.82 and the survey/inspection fee is $400.[6] Currently there are 532 licensed ASCs in Florida.[7] In 2023, ASCs were visited by patients for outpatient services 3,205,371 times which equals 53.6 percent of all outpatient visits in Florida.[8]

Accreditation

If an ASC chooses to become accredited by an organization recognized by the AHCA, including the Accreditation Association for Ambulatory Health Care, the QUAD A, the Accreditation Commission for Health Care, or the Joint Commission, the ASC may be deemed to be in compliance with state licensure and certification requirements. Deemed ASCs are not scheduled for routine on-site licensure or recertification surveys, although periodic Life Safety Code inspections are still required. Facilities must provide a complete copy of the most recent survey report indicating continuation as an accredited facility in lieu of inspections. The survey report should include correspondence from the accrediting organization containing:

- The dates of the survey,
- Any citations to which the accreditation organization requires a response,
- A response to each citation,
- The effective date of accreditation,

[3] Sections 395.001-395.1065, F.S., and part II, ch. 408, F.S.
[4] Fla. Admin. Code R. 59A-5.003(4) (2019)
[5] Fla. Admin. Code R. 59A-5.003(5) (2019)
[6] Agency for Health Care Administration, Ambulatory Surgical Center, available at https://ahca.myflorida.com/health-quality-assurance/bureau-of-health-facility-regulation/hospital-outpatient-services-unit/ambulatory-surgical-center, (last visited Mar. 13, 2025).
[7] Florida Health Finder report, available at https://quality.healthfinder.fl.gov/Facility-Search/FacilityLocateSearch, (last visited Mar. 13, 2025).
[8] Ambulatory (outpatient) Surgery Query Results, Florida Health Finder, available at https://quality.healthfinder.fl.gov/QueryTool/QTResults#, (last visited Mar. 13, 2025).

- Any follow-up reports, and
- Verification of Medicare (CMS) deemed status, if applicable.

Facilities no longer accredited or granted accreditation status other than accredited, or fail to submit the requested documentation, will be scheduled for annual licensure or recertification surveys to be conducted by AHCA field office staff.[9]

Licensure Requirements

Pursuant to s. 395.1055, F.S., the AHCA is authorized to adopt rules for hospitals and ASCs. Separate standards may be provided for general and specialty hospitals, ASCs, mobile surgical facilities, and statutory rural hospitals, but the rules for all hospitals and ASCs are required to include minimum standards for ensuring that:

- A sufficient number of qualified types of personnel and occupational disciplines are on duty and available at all times to provide necessary and adequate patient care;
- Infection control, housekeeping, sanitary conditions, and medical record procedures are established and implemented to adequately protect patients;
- A comprehensive emergency management plan is prepared and updated annually;
- Licensed facilities are established, organized, and operated consistent with established standards and rules; and
- Licensed facility beds conform to minimum space, equipment, and furnishing standards.

Rule 59A-5 of the Florida Administrative Code implements the minimum standards for ASCs. Those rules require policies and procedures to ensure the protection of patient rights.

Staff and Personnel Rules

ASCs are required to have written policies and procedures for surgical services, anesthesia services, nursing services, pharmaceutical services, laboratory services, and radiologic services. In providing these services, ACSs are required to have certain professional staff available, including:

- A qualified person responsible for the daily functioning and maintenance of the surgical suite;
- An anesthesiologist or other physician, or a certified registered nurse anesthetist under the on-site medical direction of a licensed physician, or an anesthesiologist assistant under the direct supervision of an anesthesiologist, who must be in the center during the anesthesia and post-anesthesia recovery period until all patients are cleared for discharge;
- A registered professional nurse who is responsible for coordinating and supervising all nursing services;
- A registered professional circulating nurse for a patient during that patient's surgical procedure; and
- A registered professional nurse who must be in the recovery area at all times when a patient is present.[10]

[9] Agency for Health Care Administration, Ambulatory Surgical Center, available at https://ahca.myflorida.com/health-quality-assurance/bureau-of-health-facility-regulation/hospital-outpatient-services-unit/ambulatory-surgical-center, (last visited Mar. 13, 2025).
[10] Fla. Amin. Code R. 59A-5.0085 (2021)

Infection Control Program

ASCs are required to establish an infection control program involving members of the medical, nursing, and administrative staff. The program must include written policies and procedures reflecting the scope of the infection control program. The written policies and procedures must be reviewed at least every two years by the infection control program members. The infection control program must include:

- Surveillance, prevention, and control of infection among patients and personnel;
- A system for identifying, reporting, evaluating, and maintaining records of infections;
- Ongoing review and evaluation of aseptic, isolation, and sanitation techniques employed by the ASC; and
- Development and coordination of training programs in infection control for all personnel.[11]

Emergency Management Plan

ASCs are required to develop and adopt a written comprehensive emergency management plan for emergency care during an internal or external disaster or emergency. The ASC must review the plan and update it annually.[12]

Medicare Requirements

ASCs are required to have an agreement with the federal Centers for Medicare & Medicaid Services (CMS) to participate in Medicare. ASCs are also required to comply with specific conditions for coverage. The CMS defines "ASC" as any distinct entity that operates exclusively for the purpose of providing surgical services to patients not requiring hospitalization and for whom the expected duration of services would not exceed 24 hours following an admission.[13]

The CMS may deem an ASC to be in compliance with all of the conditions for coverage if the ASC is accredited by a national accrediting body or licensed by a state agency and if the CMS determines that such accreditation or licensure provides reasonable assurance that the conditions for coverage are met.[14] All CMS conditions for coverage requirements are specifically required in Rule 59A-5 of the Florida Administrative Code and apply to all ASCs in Florida. The conditions for coverage require ASCs to have a:

- Governing body that assumes full legal responsibility for determining, implementing, and monitoring policies governing the ASC's total operation;
- Quality assessment and performance improvement program;
- Transfer agreement with one or more acute care general hospitals, which will admit any patient referred who requires continuing care;
- Disaster preparedness plan;
- Organized medical staff;
- Fire control plan;
- Sanitary environment;
- Infection control program; and

[11] Fla. Admin. Code R. 59A-5.011 (2016)
[12] Fla. Admin. Code R. 59A-5.018 (2014)
[13] 42 C.F.R. s. 416.2
[14] 42 C.F.R. s. 416.26(a)(1)

- Procedure for patient admission, assessment and discharge.

III. Effect of Proposed Changes:

Section 1 creates ch. 396, F.S., consisting of ss. 396.201-396.225, F.S., entitled "Ambulatory Surgical Centers."

Sections 2 through 25 duplicate provisions from Part I of ch. 395, F.S., as necessary to create substantively identical requirements for ambulatory surgery centers (ASC) in the newly created ch. 396, F.S.

Sections 26 through 76 amend provisions in part I of ch. 395, F.S., as well as multiple other sections of the Florida Statutes, to remove the regulation of ASCs from Part I of ch. 395, F.S., and make conforming changes.

Section 77 provides that it is the intent of the Legislature to bifurcate all fees applicable to ASCs authorized and imposed under ch. 395, F.S., and transfer them to ch. 396, F.S. The Agency for Health Care Administration is authorized to maintain its current fees for ASCs and may adopt rules to codify such fees in rule to conform to changes made by the bill. Additionally, the bill specifies that it is the intent of the Legislature to bifurcate any exemptions from public records and public meetings requirements applicable to ASCs under ch. 395, F.S., and preserve such exemptions under ch. 396, F.S.

Section 78 provides that the bill takes effect July 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

The bill creates a new chapter of the Florida Statutes specific to the regulation of ambulatory surgical centers (ASC) and removes ASC regulation from ch. 395, F.S., where it is currently housed. As such, many other statutes are required to be amended to make conforming changes to refer to ch. 396, F.S., rather than ch. 395, F.S. As drafted, the bill includes some of the necessary conforming changes but does not amend numerous other statutes that reference ch. 395, F.S., and include both ASCs and hospitals. Such additional statutes should be amended to conform to the changes made by the bill.

Additionally, the Agency for Health Care Regulation has raised several technical issues with the bill including citing multiple incorrect cross-references and several places in which not cross-referencing ch. 396, F.S., may inadvertently leave out ASCs from exemptions or regulations that are necessary for ASCs.[15]

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 383.145, 383.50, 385.211, 390.011, 394.4787, 395.001, 395.002, 395.003, 395.1055, 395.10973, 395.3025, 395.607, 395.701, 400.518, 400.93, 400.9935, 401.272, 408.051, 408.07, 408.802, 408.820, 409.905, 409.906, 409.975, 456.041, 456.053, 456.056, 458.3145, 458.320, 458.351, 459.0085, 459.026, 465.0125, 468.505, 627.351, 627.357, 627.6056, 627.6405, 627.64194, 627.6616, 627.736, 627.912, 765.101, 766.101, 766.110, 766.1115, 766.118, 766.202, 766.316, 812.014, 945.6041, and 985.6441.

This bill creates the following sections of the Florida Statutes: 396.201, 396.202, 396.203, 396.204, 396.205, 396.206, 396.207, 396.208, 396.209, 396.211, 396.212, 396.213, 396.214, 396.215, 396.216, 396.217, 396.218, 396.219, 396.221, 396.222, 396.223, 396.224, and 396.225.

[15] Agency for Health Care Administration, *Senate Bill 1730 Analysis* (Mar. 7, 2025)(on file with the Senate Appropriations Committee on Health and Human Services.)

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 Trumbull

2-01226-25 20251370__

A bill to be entitled

An act relating to ambulatory surgical centers; creating ch. 396, F.S., to be entitled "Ambulatory Surgical Centers"; creating s. 396.201, F.S.; providing legislative intent; creating s. 396.202, F.S.; defining terms; creating s. 396.203, F.S.; providing requirements for issuance, denial, suspension, and revocation of ambulatory surgical center licenses; creating s. 396.204, F.S.; providing for application fees; creating s. 396.205, F.S.; providing requirements for specified clinical and diagnostic results as a condition for issuance or renewal of a license; creating s. 396.206, F.S.; requiring the Agency for Health Care Administration to make or cause to be made specified inspections of licensed facilities; authorizing the agency to accept surveys or inspections from certain accrediting organizations in lieu of its own periodic inspections, provided certain conditions are met; requiring the agency to develop and adopt by rule certain criteria; requiring an applicant or a licensee to pay certain fees at the time of inspection; requiring the agency to coordinate periodic inspections to minimize costs and disruption of services; creating s. 396.207, F.S.; requiring each licensed facility to maintain and provide upon request records of all inspection reports pertaining to that facility; providing that such reports be retained for a specified timeframe; prohibiting the distribution of specified records;

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requiring a licensed facility to provide a copy of its most recent inspection report to certain parties upon request; providing for a charge for such copies; creating s. 396.208, F.S.; providing that specified provisions govern the design, construction, erection, alteration, modification, repair, and demolition of licensed facilities; requiring the agency to review facility plans and survey the construction of licensed facilities; authorizing the agency to conduct certain inspections and investigations; authorizing the agency to adopt certain rules; requiring the agency to approve or disapprove facility plans and specifications within a specified timeframe; providing an extension under certain circumstances; deeming a facility plan or specification approved if the agency fails to act within the specified timeframe; requiring the agency to set forth in writing its reasons for any disapprovals; authorizing the agency to charge and collect specified fees; creating s. 396.209, F.S.; prohibiting any person from paying or receiving a commission, bonus, kickback, or rebate for referring a patient to a licensed facility; requiring agency enforcement; providing administrative penalties; creating s. 396.211, F.S.; providing facility requirements for considering and acting upon applications for staff membership and clinical privileges at a licensed facility; requiring a licensed facility to establish rules and procedures for consideration of such applications; specifying

requirements for such rules and procedures; providing for the termination of clinical privileges for physician assistants under certain circumstances; requiring a licensed facility to make available specified membership or privileges to physicians under certain circumstances; providing construction; requiring the governing board of a licensed facility to set standards and procedures to be applied in considering and acting upon applications; providing that such standards and procedures must be made available for public inspection; requiring a licensed facility to provide an applicant with reasons for denial within a specified timeframe; providing immunity from monetary liability to certain persons and entities; providing that investigations, proceedings, and records produced or acquired by the governing board or its agent are not subject to discovery or introduction into evidence in certain proceedings under certain circumstances; providing for the award of specified fees and costs; requiring applicants who bring an action against a review team to post a bond or other security in a certain amount, as set by the court; creating s. 396.212, F.S.; providing legislative intent; requiring licensed facilities to provide for peer review of certain physicians and develop procedures to conduct such reviews; providing requirements for such procedures; providing grounds for peer review and reporting requirements; providing immunity from monetary

liability to certain persons and entities; providing construction; providing administrative penalties; providing that certain proceedings and records of peer review panels, committees, and governing boards or agents thereof are exempt from public record requirements and are not subject to discovery or introduction into evidence in certain proceedings; prohibiting persons in attendance at certain meetings from testifying in certain civil or administrative actions; providing construction; providing for the award of specified fees and costs; requiring persons who bring an action against a review team to post a bond or other security in a certain amount, as set by the court; creating s. 396.213, F.S.; requiring licensed facilities to establish an internal risk management program; providing requirements for such program; providing that the governing board of the licensed facility is responsible for the program; requiring licensed facilities to hire a risk manager; providing requirements for such risk manager; encouraging licensed facilities to implement certain innovative approaches; requiring licensed facilities to report specified information annually to the Department of Health; requiring the agency and the department to include certain statistical information in their respective annual reports; requiring the agency to adopt certain rules relating to internal risk management programs; defining the term “adverse incident”; requiring licensed facilities to report

specified information annually to the agency; requiring the agency to review the reported information and make certain determinations; providing that the reported information is exempt from public record requirements and is not discoverable or admissible in civil or administrative actions, with exceptions; requiring licensed facilities to report certain adverse incidents to the agency within a specified timeframe; authorizing the agency to grant extensions to the reporting requirement under certain circumstances and subject to certain conditions; providing that such reports are exempt from public records requirements and are not discoverable or admissible in civil an administrative actions, with exceptions; authorizing the agency to investigate reported adverse incidents and prescribe response measures; requiring the agency to review adverse incidents and make certain determinations; requiring the agency to publish certain reports and summaries within certain timeframes on its website; providing a purpose; providing certain investigative and reporting requirements for internal risk managers relating to the investigation and reporting of allegations of sexual misconduct or sexual abuse at licensed facilities; specifying requirements for witnesses to such allegations; defining the term "sexual abuse"; providing criminal penalties for making a false allegation of sexual misconduct; requiring the agency to require a written plan of correction from the

licensed facility for certain violations; requiring licensed facilities to provide the agency with all access to the facility records it needs for specified purposes; providing that such records obtained by the agency are exempt from public record requirements and are not discoverable or admissible in civil and administrative actions, with exceptions; providing an exemption from public meeting and record requirements for certain meetings of the committees and governing board of a licensed facility; requiring the agency to review the internal risk management program of each licensed facility as part of its licensure review process; providing risk managers with immunity from monetary and civil liability in certain proceedings under certain circumstances; providing immunity from civil liability to risk managers and licensed facilities in certain actions, with an exception; requiring the agency to report certain investigative results to the applicable regulatory board; prohibiting intimidation of a risk manager; providing for civil penalties; creating s. 396.214, F.S.; requiring licensed facilities to comply with specified requirements for the transportation of biomedical waste; creating s. 396.215, F.S.; requiring licensed facilities to adopt a patient safety plan, appoint a patient safety officer, and conduct a patient safety culture survey at least biennially; providing requirements for such survey; requiring that survey data be submitted to the agency in a certain format;

authorizing licensed facilities to develop an internal action plan for a certain purpose; creating s. 396.216, F.S.; requiring licensed facilities to adopt specified protocols for the treatment of victims of child abuse, abandonment, or neglect; requiring licensed facilities to submit a copy of such protocols to the agency and the Department of Children and Families; providing for administrative penalties; creating s. 396.217, F.S.; providing requirements for notifying patients about adverse incidents; providing construction; creating s. 396.218, F.S.; requiring the agency to adopt specified rules relating to minimum standards for licensed facilities; providing construction; providing that certain licensed facilities have a specified timeframe in which to comply with any newly adopted agency rules; preempting the adoption of certain rules to the Florida Building Commission and the State Fire Marshal; creating s. 396.219, F.S.; providing criminal and administrative penalties; authorizing the agency to impose an immediate moratorium on elective admissions to any licensed facility under certain circumstances; creating s. 396.221, F.S.; providing powers and duties of the agency; creating s. 396.222, F.S.; requiring a licensed facility to provide timely and accurate financial information and quality of service measures to certain individuals; providing an exemption; requiring a licensed facility to make available on its website certain information on payments made to that

facility for defined bundles of services and procedures and other information for consumers and patients; requiring that facility websites provide specified information and notify and inform patients or prospective patients of certain information; defining the terms "shoppable health care services" and "standard charge"; requiring a licensed facility to provide a written or an electronic good faith estimate of charges to a patient or prospective patient within a certain timeframe; specifying requirements for such estimates; requiring a licensed facility to provide information regarding financial assistance from the facility which may be available to a patient or a prospective patient; providing a civil penalty for failing to provide an estimate of charges to a patient; requiring licensed facilities to provide an itemized statement or bill to a patient or his or her survivor or legal guardian within a specified timeframe upon request and after discharge; specifying requirements for the statement or bill; requiring licensed facilities to make available certain records to the patient within a specified timeframe and in a specified manner; authorizing licensed facilities to charge fees in a specified amount for copies of such records; requiring licensed facilities to establish certain internal processes relating to itemized statements and bills and grievances; requiring licensed facilities to disclose certain information relating to the patient's cost-sharing obligation;

providing an administrative penalty for failure to disclose such information; creating s. 396.223, F.S.; defining the term "extraordinary collection action"; prohibiting certain collection actions by a licensed facility; creating s. 396.224, F.S.; prohibiting the fraudulent alteration, defacement, or falsification of medical records; providing criminal penalties and for disciplinary action; creating s. 396.225, F.S.; providing requirements for appropriate disclosure of patient records; specifying authorized charges for copies of such records; providing for confidentiality of patient records; providing exceptions; authorizing the department to examine certain records for certain purposes; providing criminal penalties; providing content and use requirements for patient records; requiring a licensed facility to furnish, in a timely manner, a true and correct copy of all patient records to certain persons; providing exemptions from public records requirements for specified personal information relating to employees of licensed facilities who provide direct patient care or security services and their spouses and children, and for specified personal information relating to other employees of licensed facilities and their spouses and children upon their request; amending ss. 383.145, 383.50, 385.211, 390.011, 394.4787, 395.001, 395.002, 395.003, 395.1055, 395.10973, 395.3025, 395.607, 395.701, 400.518, 400.93, 400.9935, 401.272, 408.051, 408.07, 408.802, 408.820, 409.905, 409.906, 409.975,

456.041, 456.053, 456.056, 458.3145, 458.320, 458.351, 459.0085, 459.026, 465.0125, 468.505, 627.351, 627.357, 627.6056, 627.6405, 627.64194, 627.6616, 627.736, 627.912, 765.101, 766.101, 766.110, 766.1115, 766.118, 766.202, 766.316, 812.014, 945.6041, and 985.6441, F.S.; conforming cross-references and provisions to changes made by the act; bifurcating fees applicable to ambulatory surgical centers under ch. 395, F.S., and transferring them to ch. 396, F.S.; authorizing the agency to maintain its current fees for ambulatory surgical centers and adopt certain rules; bifurcating public records and public meetings exemptions applicable to ambulatory surgical centers under ch. 395, F.S., and preserving them under ch. 396, F.S.; providing an effective date.

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

Section 1. Chapter 396, Florida Statutes, consisting of ss. 396.201-396.225, Florida Statutes, is created and entitled "Ambulatory Surgical Centers."

Section 2. Section 396.201, Florida Statutes, is created to read:

396.201 Legislative intent.—It is the intent of the Legislature to provide for the protection of public health and safety in the establishment, construction, maintenance, and operation of ambulatory surgical centers by providing for licensure of the same and for the development, establishment, and enforcement of minimum standards with respect thereto.

Section 3. Section 396.202, Florida Statutes, is created to read:

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

(1) "Accrediting organization" means a national accrediting organization approved by the Centers for Medicare and Medicaid Services whose standards incorporate comparable licensure regulations required by this state.

(2) "Agency" means the Agency for Health Care Administration.

(3) "Ambulatory surgical center" means a facility, the primary purpose of which is to provide elective surgical care, in which the patient is admitted to and discharged from such facility within 24 hours, and which is not part of a hospital. The term does not include a facility existing for the primary purpose of performing terminations of pregnancy, an office maintained by a physician for the practice of medicine, or an office maintained for the practice of dentistry, except that that any such facility or office that is certified or seeks certification as a Medicare ambulatory surgical center must be licensed as an ambulatory surgical center under this chapter.

(4) "Biomedical waste" has the same meaning as provided in s. 381.0098(2).

(5) "Clinical privileges" means the privileges granted to a physician or other licensed health care practitioner to render patient care services in a hospital, but does not include the privilege of admitting patients.

(6) "Department" means the Department of Health.

(7) "Director" means any member of the official board of directors as reported in the organization's annual corporate

report to the Department of State or, if no such report is made, any member of the operating board of directors. The term does not include members of separate, restricted boards who serve only in an advisory capacity to the operating board.

(8) "Licensed facility" means an ambulatory surgical center licensed under this chapter.

(9) "Lifesafety" means the control and prevention of fire and other life-threatening conditions on a premises for the purpose of preserving human life.

(10) "Managing employee" means the administrator or other similarly titled individual who is responsible for the daily operation of the licensed facility.

(11) "Medical staff" means physicians licensed under chapter 458 or chapter 459 with privileges in a licensed facility, as well as other licensed health care practitioners with clinical privileges as approved by a licensed facility's governing board.

(12) "Person" means any individual, partnership, corporation, association, or governmental unit.

(13) "Validation inspection" means an inspection of the premises of a licensed facility by the agency to assess whether a review by an accrediting organization has adequately evaluated the licensed facility according to minimum state standards.

Section 4. Section 396.203, Florida Statutes, is created to read:

396.203 Licensure; denial, suspension, and revocation.—

(1)(a) The requirements of part II of chapter 408 apply to the provision of services that require licensure pursuant to ss. 396.201-396.225 and part II of chapter 408 and to entities

licensed by or applying for such licensure from the Agency for Health Care Administration pursuant to ss. 396.201-396.225. A license issued by the agency is required in order to operate an ambulatory surgical center in this state.

(b)1. It is unlawful for a person to use or advertise to the public, in any way or by any medium whatsoever, any facility as an "ambulatory surgical center" unless such facility has first secured a license under this chapter.

2. This chapter does not apply to veterinary hospitals or to commercial business establishments using the word "hospital" or "ambulatory surgical center" as a part of a trade name if no treatment of human beings is performed on the premises of such establishments.

(2) In addition to the requirements in part II of chapter 408, the agency shall, at the request of a licensee, issue a single license to a licensee for facilities located on separate premises. Such a license shall specifically state the location of the facilities, the services, and the licensed beds available on each separate premises. If a licensee requests a single license, the licensee shall designate which facility or office is responsible for receipt of information, payment of fees, service of process, and all other activities necessary for the agency to implement this chapter.

(3) In addition to the requirements of s. 408.807, after a change of ownership has been approved by the agency, the transferee shall be liable for any liability to the state, regardless of when identified, resulting from changes to allowable costs affecting provider reimbursement for Medicaid participation or Public Medical Assistance Trust Fund

Assessments, and related administrative fines.

(4) An ambulatory surgical center must comply with ss. 627.64194 and 641.513 as a condition of licensure.

(5) In addition to the requirements of part II of chapter 408, whenever the agency finds that there has been a substantial failure to comply with the requirements established under this chapter or in rules, the agency is authorized to deny, modify, suspend, and revoke:

(a) A license;

(b) That part of a license which is limited to a separate premises, as designated on the license; or

(c) Licensure approval limited to a facility, building, or portion thereof, or a service, within a given premises.

Section 5. Section 396.204, Florida Statutes, is created to read:

396.204 Application for license; fees.—In accordance with s. 408.805, an applicant or a licensee shall pay a fee for each license application submitted under this chapter, part II of chapter 408, and applicable rules. The amount of the fee shall be established by rule. The license fee required of a facility licensed under this chapter shall be established by rule except that the minimum license fee shall be $1,500.

Section 6. Section 396.205, Florida Statutes, is created to read:

396.205 Minimum standards for clinical laboratory test results and diagnostic X-ray results; prerequisite for issuance or renewal of license.—

(1) As a requirement for issuance or renewal of its license, each licensed facility shall require that all clinical

laboratory tests performed by or for the licensed facility be performed by a clinical laboratory appropriately certified by the Centers for Medicare and Medicaid Services under the federal Clinical Laboratory Improvement Amendments and the federal rules adopted thereunder.

(2) Each licensed facility, as a requirement for issuance or renewal of its license, shall establish minimum standards for acceptance of results of diagnostic X rays performed by or for the licensed facility. Such standards shall require licensure or registration of the source of ionizing radiation under chapter 404.

(3) The results of clinical laboratory tests and diagnostic X rays performed before admission which meet the minimum standards required by law shall be accepted in lieu of routine examinations required upon admission and in lieu of clinical laboratory tests and diagnostic X rays which may be ordered by a physician for patients of the licensed facility.

Section 7. Section 396.206, Florida Statutes, is created to read:

396.206 Licensure inspection.—

(1) In addition to the requirement of s. 408.811, the agency shall make or cause to be made such inspections and investigations as it deems necessary, including, but not limited to, all of the following:

(a) Inspections directed by the Centers for Medicare and Medicaid Services.

(b) Validation inspections.

(c) Lifesafety inspections.

(d) Licensure complaint investigations, including full

licensure investigations with a review of all licensure standards as outlined in the administrative rules. Complaints received by the agency from individuals, organizations, or other sources are subject to review and investigation by the agency.

(e) Emergency access complaint investigations.

(2) The agency shall accept, in lieu of its own periodic inspections for licensure, the survey or inspection of an accrediting organization, provided that the accreditation of the licensed facility is not provisional and provided that the licensed facility authorizes release of, and the agency receives the report of, the accrediting organization. The agency shall develop, and adopt by rule, criteria for accepting survey reports of accrediting organizations in lieu of conducting a state licensure inspection.

(3) In accordance with s. 408.805, an applicant or a licensee shall pay a fee for each license application submitted under this chapter, part II of chapter 408, and applicable rules. With the exception of state-operated licensed facilities, each facility licensed under this chapter shall pay to the agency, at the time of inspection, the following fees:

(a) Inspection for licensure.—A fee of at least $400 per facility.

(b) Inspection for lifesafety only.—A fee of at least $40 per facility.

(4) The agency shall coordinate all periodic inspections for licensure made by the agency to ensure that the cost to the facility of such inspections and the disruption of services by such inspections are minimized.

Section 8. Section 396.207, Florida Statutes, is created to

read:

396.207 Inspection reports.—

(1) Each licensed facility shall maintain as public information, available upon request, records of all inspection reports pertaining to that facility. Copies of such reports shall be retained in its records for at least 5 years after the date the reports are filed and issued.

(2) Any records, reports, or documents which are confidential and exempt from s. 119.07(1) may not be distributed or made available for purposes of compliance with this section unless or until such confidential status expires.

(3) A licensed facility shall, upon the request of any person who has completed a written application with intent to be admitted to such facility, any person who is a patient of such facility, or any relative, spouse, guardian, or surrogate of any such person, furnish to the requester a copy of the last inspection report filed with or issued by the agency pertaining to the licensed facility, as provided in subsection (1), provided that the person requesting such report agrees to pay a reasonable charge to cover copying costs, not to exceed $1 per page.

Section 9. Section 396.208, Florida Statutes, is created to read:

396.208 Construction inspections; plan submission and approval; fees.—

(1)(a) The design, construction, erection, alteration, modification, repair, and demolition of all licensed health care facilities are governed by the Florida Building Code and the Florida Fire Prevention Code under ss. 553.73 and 633.206. In

addition to the requirements of ss. 553.79 and 553.80, the agency shall review facility plans and survey the construction of any facility licensed under this chapter. The agency shall make, or cause to be made, such construction inspections and investigations as it deems necessary. The agency may prescribe by rule that any licensee or applicant desiring to make specified types of alterations or additions to its facilities or to construct new facilities shall, before commencing such alteration, addition, or new construction, submit plans and specifications therefor to the agency for preliminary inspection and approval or recommendation with respect to compliance with applicable provisions of the Florida Building Code or agency rules and standards. The agency shall approve or disapprove the plans and specifications within 60 days after receipt of the fee for review of plans as required in subsection (2). The agency may be granted one 15-day extension for the review period if the director of the agency approves the extension. If the agency fails to act within the specified time, it shall be deemed to have approved the plans and specifications. When the agency disapproves plans and specifications, it shall set forth in writing the reasons for its disapproval. Conferences and consultations may be provided as necessary.

(b) All licensed facilities shall submit plans and specifications to the agency for review under this section.

(2) The agency may charge an initial fee of $2,000 for review of plans and construction on all projects, no part of which is refundable. The agency may also collect a fee, not to exceed 1 percent of the estimated construction cost or the actual cost of review, whichever is less, for the portion of the

review which encompasses initial review through the initial revised construction document review. The agency is further authorized to collect its actual costs on all subsequent portions of the review and construction inspections. The initial fee payment shall accompany the initial submission of plans and specifications. Any subsequent payment that is due is payable upon receipt of the invoice from the agency.

Section 10. Section 396.209, Florida Statutes, is created to read:

396.209 Rebates prohibited; penalties.—

(1) It is unlawful for any person to pay or receive any commission, bonus, kickback, or rebate or engage in any split-fee arrangement, in any form whatsoever, with any physician, surgeon, organization, or person, either directly or indirectly, for patients referred to a licensed facility.

(2) The agency shall enforce subsection (1). In the case of an entity not licensed by the agency, administrative penalties may include:

(a) A fine not to exceed $1,000.

(b) If applicable, a recommendation by the agency to the appropriate licensing board that disciplinary action be taken.

Section 11. Section 396.211, Florida Statutes, is created to read:

396.211 Staff membership and clinical privileges.—

(1) A licensed facility, in considering and acting upon an application for staff membership or clinical privileges, may not deny the application of a qualified doctor of medicine licensed under chapter 458, a doctor of osteopathic medicine licensed under chapter 459, a doctor of dentistry licensed under chapter

466, a doctor of podiatric medicine licensed under chapter 461, or a psychologist licensed under chapter 490 for such staff membership or clinical privileges within the scope of his or her respective licensure solely because the applicant is licensed under any of such chapters.

(2)(a) Each licensed facility shall establish rules and procedures for consideration of an application for clinical privileges submitted by an advanced practice registered nurse licensed under part I of chapter 464, in accordance with this section. A licensed facility may not deny such application solely because the applicant is licensed under part I of chapter 464 or because the applicant is not a participant in the Florida Birth-Related Neurological Injury Compensation Plan.

(b) An advanced practice registered nurse who is certified as a registered nurse anesthetist licensed under part I of chapter 464 may administer anesthesia under the onsite medical direction of a professional licensed under chapter 458, chapter 459, or chapter 466, and in accordance with an established protocol approved by the medical staff. The medical direction shall specifically address the needs of the individual patient.

(c) Each licensed facility shall establish rules and procedures for consideration of an application for clinical privileges submitted by a physician assistant licensed pursuant to s. 458.347 or s. 459.022. Clinical privileges granted to a physician assistant pursuant to this subsection shall automatically terminate upon termination of staff membership of the physician assistant's supervising physician.

(3) When a licensed facility requires, as a precondition to obtaining staff membership or clinical privileges, the

completion of, eligibility in, or graduation from any program or society established by or relating to the American Medical Association or the Liaison Committee on Graduate Medical Education, the licensed facility shall also make available such membership or privileges to physicians who have attained completion of, eligibility in, or graduation from any equivalent program established by or relating to the American Osteopathic Association.

(4) This section does not restrict in any way the authority of the medical staff of a licensed facility to review for approval or disapproval all applications for appointment and reappointment to all categories of staff and to make recommendations on each applicant to the governing board, including the delineation of privileges to be granted in each case. In making such recommendations and in the delineation of privileges, each applicant shall be considered individually pursuant to criteria for a doctor licensed under chapter 458, chapter 459, chapter 461, or chapter 466, or for an advanced practice registered nurse licensed under part I of chapter 464, or for a psychologist licensed under chapter 490, as applicable. The applicant's eligibility for staff membership or clinical privileges shall be determined by the applicant's background, experience, health, training, and demonstrated competency; the applicant's adherence to applicable professional ethics; the applicant's reputation; and the applicant's ability to work with others and by such other elements as determined by the governing board, consistent with this chapter.

(5) The governing board of each licensed facility shall set standards and procedures to be applied by the licensed facility

and its medical staff in considering and acting upon applications for staff membership or clinical privileges. Such standards and procedures must be made available for public inspection.

(6) Upon the written request of the applicant, any licensed facility that has denied staff membership or clinical privileges to an applicant specified in subsection (1) or subsection (2) must, within 30 days after such request, provide the applicant with the reasons for such denial in writing. A denial of staff membership or clinical privileges to any applicant shall be submitted, in writing, to the applicant's respective licensing board.

(7) There is no monetary liability on the part of, and no cause of action for injunctive relief or damages may arise against, any licensed facility, its governing board or governing board members, medical staff, or disciplinary board or against its agents, investigators, witnesses, or employees, or against any other person, for any action arising out of or related to carrying out this section, absent intentional fraud.

(8) The investigations, proceedings, and records of the board, or its agent with whom there is a specific written contract for the purposes of this section, as described in this section are not subject to discovery or introduction into evidence in any civil action against a provider of professional health services arising out of matters that are the subject of evaluation and review by such board, and any person who was in attendance at a meeting of such board or its agent is not permitted or required to testify in any such civil action as to any evidence or other matters produced or presented during the

proceedings of such board or its agent or as to any findings, recommendations, evaluations, opinions, or other actions of such board or its agent or any members thereof. However, information, documents, or records otherwise available from original sources are not to be construed as immune from discovery or use in any such civil action merely because they were presented during proceedings of such board; nor should any person who testifies before such board or who is a member of such board be prevented from testifying as to matters within his or her knowledge, but such witness cannot be asked about his or her testimony before such a board or opinions formed by him or her as a result of such board hearings.

(9)(a) If the defendant prevails in an action brought by an applicant against any person or entity that initiated, participated in, was a witness in, or conducted any review as authorized by this section, the court shall award reasonable attorney fees and costs to the defendant.

(b) As a condition of any applicant bringing any action against any person or entity that initiated, participated in, was a witness in, or conducted any review as authorized by this section and before any responsive pleading is due, the applicant shall post a bond or other security, as set by the court having jurisdiction in the action, in an amount sufficient to pay the costs and attorney fees.

Section 12. Section 396.212, Florida Statutes, is created to read:

396.212 Licensed facilities; peer review; disciplinary powers; agency or partnership with physicians.—

(1) It is the intent of the Legislature that good faith

participants in the process of investigating and disciplining physicians pursuant to the state-mandated peer review process shall, in addition to receiving immunity from retaliatory tort suits pursuant to s. 456.073(12), be protected from federal antitrust suits filed under the Sherman Antitrust Act, 15 U.S.C. ss. 1 et seq. Such intent is within the public policy of the state to secure the provision of quality medical services to the public.

(2) Each licensed facility, as a condition of licensure, shall provide for peer review of physicians who deliver health care services at the facility. Each licensed facility shall develop written, binding procedures by which such peer review shall be conducted. Such procedures shall include all of the following:

(a) A mechanism for choosing the membership of the body or bodies that conduct peer review.

(b) Adoption of rules of order for the peer review process.

(c) Fair review of the case with the physician involved.

(d) A mechanism to identify and avoid conflict of interest on the part of the peer review panel members.

(e) Recording of agendas and minutes that do not contain confidential material, for review by the Division of Health Quality Assurance of the agency.

(f) A review, at least annually, of the peer review procedures by the governing board of the licensed facility.

(g) Focus the peer review process on reviewing professional practices at the facility to reduce morbidity and mortality and to improve patient care.

(3) If reasonable belief exists that conduct by a staff

member or physician who delivers health care services at the licensed facility may constitute one or more grounds for discipline as provided in this subsection, a peer review panel must investigate and determine whether grounds for discipline exist with respect to such staff member or physician. The governing board of a licensed facility, after considering the recommendations of its peer review panel, shall suspend, deny, revoke, or curtail the privileges, or reprimand, counsel, or require education, of any such staff member or physician after a final determination has been made that one or more of the following grounds exist:

(a) Incompetence.

(b) Being found to be a habitual user of intoxicants or drugs to the extent that he or she is deemed dangerous to himself, herself, or others.

(c) Mental or physical impairment which may adversely affect patient care.

(d) Being found liable by a court of competent jurisdiction for medical negligence or malpractice involving negligent conduct.

(e) One or more settlements exceeding $10,000 for medical negligence or malpractice involving negligent conduct by the staff member or physician.

(f) Medical negligence other than as specified in paragraph (d) or paragraph (e).

(g) Failure to comply with the policies, procedures, or directives of the risk management program or any quality assurance committees of any licensed facility.

(4) Pursuant to ss. 458.337 and 459.016, any disciplinary

actions taken under subsection (3) shall be reported in writing to the Division of Medical Quality Assurance of the Department of Health within 30 working days after its initial occurrence, regardless of the pendency of appeals to the governing board of the licensed facility. The notification shall identify the disciplined practitioner, the action taken, and the reason for such action. All final disciplinary actions taken under subsection (3), if different from those which were reported to the agency within 30 days after the initial occurrence, shall be reported within 10 working days to the Division of Medical Quality Assurance in writing and shall specify the disciplinary action taken and the specific grounds therefor. The division shall review each report and determine whether it potentially involved conduct by the licensee which is subject to disciplinary action, in which case s. 456.073 shall apply. The reports are not subject to inspection under s. 119.07(1) even if the division's investigation results in a finding of probable cause.

(5) There is no monetary liability on the part of, and no cause of action for damages may rise against, any licensed facility, its governing board or governing board members, peer review panel, medical staff, or disciplinary body, or its agents, investigators, witnesses, or employees; a committee of a licensed facility; or any other person for any action taken without intentional fraud in carrying out this section.

(6) For a single incident or series of isolated incidents that are nonwillful violations of the reporting requirements of this section or part II of chapter 408, the agency shall first seek to obtain corrective action by the licensed facility. If

correction is not demonstrated within the timeframe established by the agency or if there is a pattern of nonwillful violations of this section or part II of chapter 408, the agency may impose an administrative fine, not to exceed $5,000 for any violation of the reporting requirements of this section or part II of chapter 408. The administrative fine for repeated nonwillful violations may not exceed $10,000 for any violation. The administrative fine for each intentional and willful violation may not exceed $25,000 per violation, per day. The fine for an intentional and willful violation of this section or part II of chapter 408 may not exceed $250,000. In determining the amount of fine to be levied, the agency shall be guided by s. 395.1065(2)(b).

(7) The proceedings and records of peer review panels, committees, and governing boards or agents thereof which relate solely to actions taken in carrying out this section are not subject to inspection under s. 119.07(1); and meetings held pursuant to achieving the objectives of such panels, committees, and governing boards or agents thereof are not open to the public under chapter 286.

(8) The investigations, proceedings, and records of the peer review panel, a committee of an ambulatory surgical center, a disciplinary board, or a governing board, or agents thereof with whom there is a specific written contract for that purpose, as described in this section are not subject to discovery or introduction into evidence in any civil or administrative action against a provider of professional health services arising out of the matters that are the subject of evaluation and review by such group or its agent, and a person who was in attendance at a

meeting of such group or its agent is not permitted and may not be required to testify in any such civil or administrative action as to any evidence or other matters produced or presented during the proceedings of such group or its agent or as to any findings, recommendations, evaluations, opinions, or other actions of such group or its agent or any members thereof. However, information, documents, or records otherwise available from original sources are not to be construed as immune from discovery or use in any such civil or administrative action merely because they were presented during proceedings of such group, and any person who testifies before such group or who is a member of such group may not be prevented from testifying as to matters within his or her knowledge, but such witness may not be asked about his or her testimony before such a group or opinions formed by him or her as a result of such group hearings.

(9)(a) If the defendant prevails in an action brought by a staff member or physician who delivers health care services at the licensed facility against any person or entity that initiated, participated in, was a witness in, or conducted any review as authorized by this section, the court shall award reasonable attorney fees and costs to the defendant.

(b) As a condition of any staff member or physician bringing any action against any person or entity that initiated, participated in, was a witness in, or conducted any review as authorized by this section and before any responsive pleading is due, the staff member or physician shall post a bond or other security, as set by the court having jurisdiction in the action, in an amount sufficient to pay the costs and attorney fees.

Section 13. Section 396.213, Florida Statutes, is created to read:

396.213 Internal risk management program.—

(1) Every licensed facility shall, as a part of its administrative functions, establish an internal risk management program that includes, at a minimum, all of the following components:

(a) The investigation and analysis of the frequency and causes of general categories and specific types of adverse incidents to patients.

(b) The development of appropriate measures to minimize the risk of adverse incidents to patients, including, but not limited to:

1. Risk management and risk prevention education and training of all nonphysician personnel as follows:

a. Such education and training of all nonphysician personnel as part of their initial orientation; and

b. At least 1 hour of such education and training annually for all personnel of the licensed facility working in clinical areas and providing patient care, except those persons licensed as health care practitioners who are required to complete continuing education coursework pursuant to chapter 456 or the respective practice act.

2. A prohibition, except when emergency circumstances require otherwise, against a staff member of the licensed facility attending a patient in the recovery room, unless the staff member is authorized to attend the patient in the recovery room and is in the company of at least one other person. However, a licensed facility is exempt from the two-person

requirement if it has:

a. Live visual observation;

b. Electronic observation; or

c. Any other reasonable measure taken to ensure patient protection and privacy.

3. A prohibition against an unlicensed person assisting or participating in any surgical procedure unless the licensed facility has authorized the person to do so following a competency assessment, and such assistance or participation is done under the direct and immediate supervision of a licensed physician and is not otherwise an activity that may only be performed by a licensed health care practitioner.

4. Development, implementation, and ongoing evaluation of procedures, protocols, and systems to accurately identify patients, planned procedures, and the correct site of planned procedures so as to minimize the performance of a surgical procedure on the wrong patient, a wrong surgical procedure, a wrong-site surgical procedure, or a surgical procedure otherwise unrelated to the patient's diagnosis or medical condition.

(c) The analysis of patient grievances that relate to patient care and the quality of medical services.

(d) A system for informing a patient or an individual identified pursuant to s. 765.401(1) that the patient was the subject of an adverse incident, as defined in subsection (5). Such notice shall be given by an appropriately trained person designated by the licensed facility as soon as practicable to allow the patient an opportunity to minimize damage or injury.

(e) The development and implementation of an incident reporting system based upon the affirmative duty of all health

care providers and all agents and employees of the licensed facility to report adverse incidents to the risk manager, or to his or her designee, within 3 business days after the occurrence of such incidents.

(2) The internal risk management program is the responsibility of the governing board of the licensed facility. Each licensed facility shall hire a risk manager who is responsible for implementation and oversight of the facility's internal risk management program and who demonstrates competence, through education or experience, in all of the following areas:

(a) Applicable standards of health care risk management.

(b) Applicable federal, state, and local health and safety laws and rules.

(c) General risk management administration.

(d) Patient care.

(e) Medical care.

(f) Personal and social care.

(g) Accident prevention.

(h) Departmental organization and management.

(i) Community interrelationships.

(j) Medical terminology.

(3) In addition to the programs mandated by this section, other innovative approaches intended to reduce the frequency and severity of medical malpractice and patient injury claims are encouraged and their implementation and operation facilitated. Such additional approaches may include extending internal risk management programs to health care providers' offices and the assuming of provider liability by a licensed facility for acts

or omissions occurring within the licensed facility. Each licensed facility shall annually report to the agency and the Department of Health the name and judgments entered against each health care practitioner for which it assumes liability. The agency and the department, in their respective annual reports, shall include statistics that report the number of licensed facilities that assume such liability and the number of health care practitioners, by profession, for whom they assume liability.

(4) The agency shall adopt rules governing the establishment of internal risk management programs to meet the needs of individual licensed facilities. Each internal risk management program shall include the use of incident reports to be filed with a responsible individual who is competent in risk management techniques, such as an insurance coordinator, in the employ of each licensed facility, or who is retained by the licensed facility as a consultant. The individual responsible for the risk management program shall have free access to all medical records of the licensed facility. The incident reports are part of the workpapers of the attorney defending the licensed facility in litigation relating to the licensed facility and are subject to discovery, but are not admissible as evidence in court. A person filing an incident report is not subject to civil suit by virtue of such incident report. As a part of each internal risk management program, the incident reports shall be used to develop categories of incidents which identify problem areas. Once identified, procedures shall be adjusted to correct the problem areas.

(5) For purposes of reporting to the agency pursuant to

this section, the term "adverse incident" means an event over which health care personnel could exercise control and which is associated in whole or in part with medical intervention, rather than the condition for which such intervention occurred, and which:

(a) Results in one of the following outcomes:

1. Death;

2. Brain or spinal damage;

3. Permanent disfigurement;

4. Fracture or dislocation of bones or joints;

5. A resulting limitation of neurological, physical, or sensory function which continues after discharge from the licensed facility;

6. Any condition that required specialized medical attention or surgical intervention resulting from nonemergency medical intervention, other than an emergency medical condition, to which the patient has not given his or her informed consent; or

7. Any condition that required the transfer of the patient, within or outside the licensed facility, to a unit providing a more acute level of care due to the adverse incident, rather than the patient's condition before the adverse incident.

(b) Was the performance of a surgical procedure on the wrong patient, a wrong surgical procedure, a wrong-site surgical procedure, or a surgical procedure otherwise unrelated to the patient's diagnosis or medical condition;

(c) Required the surgical repair of damage resulting to a patient from a planned surgical procedure, where the damage was not a recognized specific risk, as disclosed to the patient and

documented through the informed-consent process; or

(d) Was a procedure to remove unplanned foreign objects remaining from a surgical procedure.

(6)(a) Each licensed facility subject to this section shall submit an annual report to the agency summarizing the adverse incident reports that have been filed in the facility for that year. The report shall include:

1. The total number of adverse incidents.

2. A listing, by category, of the types of operations, diagnostic or treatment procedures, or other actions causing the injuries, and the number of incidents occurring within each category.

3. A listing, by category, of the types of injuries caused and the number of incidents occurring within each category.

4. A code number using the health care professional's licensure number and a separate code number identifying all other individuals directly involved in adverse incidents to patients, the relationship of the individual to the licensed facility, and the number of incidents in which each individual has been directly involved. Each licensed facility shall maintain names of the health care professionals and individuals identified by code numbers for purposes of this section.

5. A description of all malpractice claims filed against the licensed facility, including the total number of pending and closed claims and the nature of the incident which led to, the persons involved in, and the status and disposition of each claim. Each report shall update status and disposition for all prior reports.

(b) The information reported to the agency pursuant to

paragraph (a) which relates to persons licensed under chapter 458, chapter 459, chapter 461, or chapter 466 shall be reviewed by the agency. The agency shall determine whether any of the incidents potentially involved conduct by a health care professional who is subject to disciplinary action, in which case s. 456.073 applies.

(c) The report submitted to the agency must also contain the name of the risk manager of the licensed facility, a copy of the policies and procedures governing the measures taken by the licensed facility and its risk manager to reduce the risk of injuries and adverse incidents, and the results of such measures. The annual report is confidential and is not available to the public pursuant to s. 119.07(1) or any other law providing access to public records. The annual report is not discoverable or admissible in any civil or administrative action, except in disciplinary proceedings by the agency or the appropriate regulatory board. The annual report is not available to the public as part of the record of investigation for and prosecution in disciplinary proceedings made available to the public by the agency or the appropriate regulatory board. However, the agency or the appropriate regulatory board shall make available, upon written request by a health care professional against whom probable cause has been found, any such records which form the basis of the determination of probable cause.

(7) Any of the following adverse incidents, whether occurring in the licensed facility or arising from health care services administered before admission in the licensed facility, shall be reported by the licensed facility to the agency within

15 calendar days after its occurrence:

(a) The death of a patient;

(b) Brain or spinal damage to a patient;

(c) The performance of a surgical procedure on the wrong patient;

(d) The performance of a wrong-site surgical procedure;

(e) The performance of a wrong surgical procedure;

(f) The performance of a surgical procedure that is medically unnecessary or otherwise unrelated to the patient's diagnosis or medical condition;

(g) The surgical repair of damage resulting to a patient from a planned surgical procedure, where the damage is not a recognized specific risk, as disclosed to the patient and documented through the informed-consent process; or

(h) The performance of procedures to remove unplanned foreign objects remaining from a surgical procedure.

The agency may grant extensions to this reporting requirement for more than 15 days upon justification submitted in writing by the licensed facility administrator to the agency. The agency may require an additional, final report. These reports may not be available to the public pursuant to s. 119.07(1) or any other law providing access to public records, nor be discoverable or admissible in any civil or administrative action, except in disciplinary proceedings by the agency or the appropriate regulatory board, nor shall they be available to the public as part of the record of investigation for and prosecution in disciplinary proceedings made available to the public by the agency or the appropriate regulatory board. However, the agency

or the appropriate regulatory board shall make available, upon written request by a health care professional against whom probable cause has been found, any such records which form the basis of the determination of probable cause. The agency may investigate, as it deems appropriate, any such incident and prescribe measures that must or may be taken in response to the incident. The agency shall review each incident and determine whether it potentially involved conduct by the health care professional, who would be subject to disciplinary action, in which case s. 456.073 applies.

(8) The agency shall publish on the agency's website, at least quarterly, a summary and trend analysis of adverse incident reports received pursuant to this section, which may not include information that would identify the patient, the reporting facility, or the health care practitioners involved. The agency shall publish on the agency's website an annual summary and trend analysis of all adverse incident reports and malpractice claims information provided by licensed facilities in their annual reports, which may not include information that would identify the patient, the reporting facility, or the practitioners involved. The purpose of the publication of the summary and trend analysis is to promote the rapid dissemination of information relating to adverse incidents and malpractice claims to assist in avoidance of similar incidents and reduce morbidity and mortality.

(9) The internal risk manager of each licensed facility shall:

(a) Investigate every allegation of sexual misconduct which is made against a member of the licensed facility's personnel

who has direct patient contact, when the allegation is that the sexual misconduct occurred at the facility or on the grounds of the facility.

(b) Report every allegation of sexual misconduct to the administrator of the licensed facility.

(c) Notify the family or guardian of the victim, if a minor, that an allegation of sexual misconduct has been made and that an investigation is being conducted.

(d) Report to the Department of Health every allegation of sexual misconduct, as defined in chapter 456 and the respective practice act, by a licensed health care practitioner which involves a patient.

(10) Any witness who witnessed or who possesses actual knowledge of the act that is the basis of an allegation of sexual abuse shall:

(a) Notify the local police; and

(b) Notify the risk manager and the administrator.

For purposes of this subsection, the term "sexual abuse" means acts of a sexual nature committed for the sexual gratification of anyone upon, or in the presence of, a vulnerable adult, without the vulnerable adult's informed consent, or a minor. The term includes, but is not limited to, the acts defined in s. 794.011(1)(j), fondling, exposure of a vulnerable adult's or minor's sexual organs, or the use of the vulnerable adult or minor to solicit for or engage in prostitution or sexual performance. The term does not include any act intended for a valid medical purpose or any act which may reasonably be construed to be a normal caregiving action.

(11) A person who, with malice or with intent to discredit or harm a licensed facility or any person, makes a false allegation of sexual misconduct against a member of a licensed facility's personnel is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(12) In addition to any penalty imposed pursuant to this section or part II of chapter 408, the agency shall require a written plan of correction from the licensed facility. For a single incident or series of isolated incidents that are nonwillful violations of the reporting requirements of this section or part II of chapter 408, the agency shall first seek to obtain corrective action by the licensed facility. If the correction is not demonstrated within the timeframe established by the agency or if there is a pattern of nonwillful violations of this section or part II of chapter 408, the agency may impose an administrative fine, not to exceed $5,000 for any violation of the reporting requirements of this section or part II of chapter 408. The administrative fine for repeated nonwillful violations may not exceed $10,000 for any violation. The administrative fine for each intentional and willful violation may not exceed $25,000 per violation, per day. The fine for an intentional and willful violation of this section or part II of chapter 408 may not exceed $250,000. In determining the amount of fine to be levied, the agency shall be guided by s. 395.1065(2)(b).

(13) The agency must be given access to all licensed facility records necessary to carry out this section. The records obtained by the agency under subsection (6), subsection (7), or subsection (9) are not available to the public under s.

119.07(1), nor are they discoverable or admissible in any civil or administrative action, except in disciplinary proceedings by the agency or the appropriate regulatory board, nor are records obtained pursuant to s. 456.071 available to the public as part of the record of investigation for and prosecution in disciplinary proceedings made available to the public by the agency or the appropriate regulatory board. However, the agency or the appropriate regulatory board shall make available, upon written request by a health care practitioner against whom probable cause has been found, any such records which form the basis of the determination of probable cause, except that, with respect to medical review committee records, s. 766.101 controls.

(14) The meetings of the committees and governing board of a licensed facility held solely for the purpose of achieving the objectives of risk management as provided by this section may not be open to the public under chapter 286. The records of such meetings are confidential and exempt from s. 119.07(1), except as provided in subsection (13).

(15) The agency shall review, as part of its licensure inspection process, the internal risk management program at each licensed facility regulated by this section to determine whether the program meets standards established in statutes and rules, whether the program is being conducted in a manner designed to reduce adverse incidents, and whether the program is appropriately reporting incidents under this section.

(16) There is no monetary liability on the part of, and no cause of action for damages may arise against, any risk manager for the implementation and oversight of the internal risk

management program in a facility licensed under this chapter or chapter 390 as required by this section, for any act or proceeding undertaken or performed within the scope of the functions of such internal risk management program, if the risk manager acts without intentional fraud.

(17) A privilege against civil liability is granted to any risk manager or licensed facility with regard to information furnished pursuant to this chapter, unless the risk manager or facility acted in bad faith or with malice in providing such information.

(18) If the agency, through its receipt of any reports required under this section or through any investigation, has a reasonable belief that conduct by a staff member or employee of a licensed facility is grounds for disciplinary action by the appropriate regulatory board, the agency shall report this fact to such regulatory board.

(19) It is unlawful for any person to coerce, intimidate, or preclude a risk manager from lawfully executing his or her reporting obligations pursuant to this chapter. Such unlawful action is subject to civil monetary penalties not to exceed $10,000 per violation.

Section 14. Section 396.214, Florida Statutes, is created to read:

396.214 Identification, segregation, and separation of biomedical waste.—Each licensed facility shall comply with the requirements in s. 381.0098 relating to biomedical waste. Any transporter or potential transporter of such waste shall be notified of the existence and locations of such waste.

Section 15. Section 396.215, Florida Statutes, is created

to read:

396.215 Patient safety.—

(1) Each licensed facility must adopt a patient safety plan. A plan adopted to implement the requirements of 42 C.F.R. s. 482.21 shall be deemed to comply with this requirement.

(2) Each licensed facility shall appoint a patient safety officer for the purpose of promoting the health and safety of patients, reviewing and evaluating the quality of patient safety measures used by the facility, and assisting in the implementation of the facility patient safety plan.

(3) Each licensed facility must, at least biennially, conduct a patient safety culture survey using the applicable Survey on Patient Safety Culture developed by the federal Agency for Healthcare Research and Quality. Each licensed facility shall conduct the survey anonymously to encourage completion of the survey by staff working in or employed by the facility. Each licensed facility may contract to administer the survey. Each licensed facility shall biennially submit the survey data to the agency in a format specified by rule, which must include the survey participation rate. Each licensed facility may develop an internal action plan between conducting surveys to identify measures to improve the survey and submit the plan to the agency.

Section 16. Section 396.216, Florida Statutes, is created to read:

396.216 Cases of child abuse, abandonment, or neglect; duties.—Each licensed facility shall adopt a protocol that, at a minimum, requires the facility to:

(1) Incorporate a facility policy that every staff member

has an affirmative duty to report, pursuant to chapter 39, any actual or suspected case of child abuse, abandonment, or neglect; and

(2) In any case involving suspected child abuse, abandonment, or neglect, designate, at the request of the Department of Children and Families, a staff physician to act as a liaison between the licensed facility and the Department of Children and Families office that is investigating the suspected abuse, abandonment, or neglect, and the Child Protection Team, as defined in s. 39.01, when the case is referred to such a team.

Each licensed facility shall provide a copy of its policy to the agency and the department as specified by agency rule. Failure to comply with this section is punishable by a fine not to exceed $1,000, to be fixed, imposed, and collected by the agency. Each day in violation of this section is considered a separate offense.

Section 17. Section 396.217, Florida Statutes, is created to read:

396.217 Duty to notify patients.—An appropriately trained person designated by each licensed facility shall inform each patient, or an individual identified pursuant to s. 765.401(1), in person about adverse incidents that result in serious harm to the patient. Notifications of outcomes of care that result in harm to the patient under this section do not constitute an acknowledgment or admission of liability, and may not be introduced as evidence.

Section 18. Section 396.218, Florida Statutes, is created

to read:

396.218 Rules and enforcement.—

(1) The agency shall adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this chapter, which shall include reasonable and fair minimum standards for ensuring that:

(a) Sufficient numbers and qualified types of personnel and occupational disciplines are on duty and available at all times to provide necessary and adequate patient care and safety.

(b) Infection control, housekeeping, sanitary conditions, and medical record procedures that will adequately protect patient care and safety are established and implemented.

(c) A comprehensive emergency management plan is prepared and updated annually. Such standards must be included in the rules adopted by the agency after consulting with the Division of Emergency Management. At a minimum, the rules must provide for plan components that address emergency evacuation transportation; adequate sheltering arrangements; postdisaster activities, including emergency power, food, and water; postdisaster transportation; supplies; staffing; emergency equipment; individual identification of residents and transfer of records, and responding to family inquiries. The comprehensive emergency management plan is subject to review and approval by the local emergency management agency. During its review, the local emergency management agency shall ensure that the following agencies, at a minimum, are given the opportunity to review the plan: the Department of Elderly Affairs, the Department of Health, the Agency for Health Care Administration, and the Division of Emergency Management. Also, appropriate volunteer organizations must be given the opportunity to review

the plan. The local emergency management agency shall complete its review within 60 days and either approve the plan or advise the licensed facility of necessary revisions.

(d) Licensed facilities are established, organized, and operated consistent with established standards and rules.

(e) Licensed facility beds conform to minimum space, equipment, and furnishings standards as specified by the department.

(f) Each licensed facility has a quality improvement program designed according to standards established by its current accrediting organization. This program will enhance quality of care and emphasize quality patient outcomes, corrective action for problems, governing board review, and reporting to the agency of standardized data elements necessary to analyze quality of care outcomes. The agency shall use existing data, when available, and may not duplicate the efforts of other state agencies in order to obtain such data.

(g) Licensed facilities make available on their Internet websites, and in a hard copy format upon request, a description of and a link to the patient charge and performance outcome data collected from licensed facilities pursuant to s. 408.061.

(2) The agency shall adopt rules that establish minimum standards for pediatric patient care in ambulatory surgical centers to ensure the safe and effective delivery of surgical care to children. Such standards must include quality of care, nurse staffing, physician staffing, and equipment standards. Ambulatory surgical centers may not provide operative procedures to children under 18 years of age which require a length of stay past midnight until such standards are established by rule.

(3) Any rule adopted under this chapter by the agency may not deny a license to a facility required to be licensed under this chapter solely by reason of the school or system of practice employed or permitted to be employed by physicians therein, provided that such school or system of practice is recognized by the laws of this state. However, this subsection does not limit the powers of the agency to provide and require minimum standards for the maintenance and operation of, and for the treatment of patients in, those licensed facilities which receive federal aid, in order to meet minimum standards related to such matters in such licensed facilities which may now or hereafter be required by appropriate federal officers or agencies pursuant to federal law or rules adopted pursuant thereto.

(4) Any licensed facility which is in operation at the time of adoption of any applicable rules under this chapter must be given a reasonable time, under the particular circumstances, but not to exceed 1 year after the date of such adoption, within which to comply with such rules.

(5) The agency may not adopt any rule governing the design, construction, erection, alteration, modification, repair, or demolition of any ambulatory surgical center. It is the intent of the Legislature to preempt that function to the Florida Building Commission and the State Fire Marshal through adoption and maintenance of the Florida Building Code and the Florida Fire Prevention Code. However, the agency shall provide technical assistance to the commission and the State Fire Marshal in updating the construction standards of the Florida Building Code and the Florida Fire Prevention Code which govern

ambulatory surgical centers.

Section 19. Section 396.219, Florida Statutes, is created to read:

396.219 Criminal and administrative penalties; moratorium.—

(1) In addition to s. 408.812, any person establishing, conducting, managing, or operating any facility without a license under this chapter commits a misdemeanor and, upon conviction, shall be fined not more than $500 for the first offense and not more than $1,000 for each subsequent offense, and each day of continuing violation after conviction is considered a separate offense.

(2)(a) The agency may impose an administrative fine, not to exceed $1,000 per violation, per day, for the violation of any provision of this chapter, part II of chapter 408, or applicable rules. Each day of violation constitutes a separate violation and is subject to a separate fine.

(b) In determining the amount of fine to be levied for a violation, as provided in paragraph (a), the following factors must be considered:

1. The severity of the violation, including the probability that death or serious harm to the health or safety of any person will result or has resulted, the severity of the actual or potential harm, and the extent to which the provisions of this chapter were violated.

2. Actions taken by the licensee to correct the violations or to remedy complaints.

3. Any previous violations of the licensee.

(c) The agency may impose an administrative fine for the violation of s. 641.3154 or, if sufficient claims due to a

provider from a health maintenance organization do not exist to enable the take-back of an overpayment, as provided under s. 641.3155(5), for the violation of s. 641.3155(5). The administrative fine for a violation cited in this paragraph shall be in the amounts specified in s. 641.52(5), and paragraph (a) does not apply.

(3) In accordance with part II of chapter 408, the agency may impose an immediate moratorium on elective admissions to any licensed facility, building, or portion thereof, or service, when the agency determines that any condition in the licensed facility presents a threat to public health or safety.

(4) The agency shall impose a fine of $500 for each instance of the licensed facility's failure to provide the information required by rules adopted pursuant to s. 395.1055(1)(g).

Section 20. Section 396.221, Florida Statutes, is created to read:

396.221 Powers and duties of the agency.—The agency shall:

(1) Adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this chapter and part II of chapter 408 conferring duties upon it.

(2) Develop a model risk management program for licensed facilities which will satisfy the requirements of s. 395.0197.

(3) Enforce the special-occupancy provisions of the Florida Building Code which apply to ambulatory surgical centers in conducting any inspection authorized by this chapter and part II of chapter 408.

Section 21. Section 396.222, Florida Statutes, is created to read:

396.222 Price transparency; itemized patient statement or bill; patient admission status notification.—

(1) A facility licensed under this chapter shall provide timely and accurate financial information and quality of service measures to patients and prospective patients of the facility, or to patients' survivors or legal guardians, as appropriate. Such information shall be provided in accordance with this section and rules adopted by the agency pursuant to this chapter and s. 408.05. Licensed facilities operating exclusively as state facilities are exempt from this subsection.

(a) Each licensed facility shall make available to the public on its website information on payments made to that facility for defined bundles of services and procedures. The payment data must be presented and searchable in accordance with, and through a hyperlink to, the system established by the agency and its vendor using the descriptive service bundles developed under s. 408.05(3)(c). At a minimum, the licensed facility shall provide the estimated average payment received from all payors, excluding Medicaid and Medicare, for the descriptive service bundles available at that facility and the estimated payment range for such bundles. Using plain language, comprehensible to an ordinary layperson, the licensed facility must disclose that the information on average payments and the payment ranges is an estimate of costs that may be incurred by the patient or prospective patient and that actual costs will be based on the services actually provided to the patient. The licensed facility's website must:

1. Provide information to prospective patients on the licensed facility's financial assistance policy, including the

application process, payment plans, and discounts, and the facility's charity care policy and collection procedures.

2. If applicable, notify patients and prospective patients that services may be provided in the licensed facility by that facility as well as by other health care providers who may separately bill the patient and that such health care providers may or may not participate with the same health insurers or health maintenance organizations as the facility.

3. Inform patients and prospective patients that they may request from the licensed facility and other health care providers a more personalized estimate of charges and other information, and inform patients that they should contact each health care practitioner who will provide services in the facility to determine the health insurers and health maintenance organizations with which the health care practitioner participates as a network provider or preferred provider.

4. Provide the names, mailing addresses, and telephone numbers of the health care practitioners and medical practice groups with which it contracts to provide services in the licensed facility and instructions on how to contact the practitioners and groups to determine the health insurers and health maintenance organizations with which they participate as network providers or preferred providers.

(b) Each licensed facility shall post on its website a consumer-friendly list of standard charges for at least 300 shoppable health care services, or an Internet-based price estimator tool meeting federal standards. If a licensed facility provides fewer than 300 distinct shoppable health care services, it shall make available on its website the standard charges for

each service it provides. As used in this paragraph, the term:

1. "Shoppable health care service" means a service that can be scheduled by a healthcare consumer in advance. The term includes, but is not limited to, the services described in s. 627.6387(2)(e) and any services defined in regulations or guidance issued by the United States Department of Health and Human Services.

2. "Standard charge" has the same meaning as that term is defined in regulations or guidance issued by the United States Department of Health and Human Services for purposes of ambulatory surgical center price transparency.

(c)1. Before providing any nonemergency medical services, each licensed facility shall provide in writing or by electronic means a good faith estimate of reasonably anticipated charges for the treatment of a patient's or prospective patient's specific condition. The licensed facility is not required to adjust the estimate for any potential insurance coverage. The licensed facility must provide the estimate to the patient's health insurer, as defined in s. 627.446(1), and the patient at least 3 business days before the date such service is to be provided, but no later than 1 business day after the date such service is scheduled or, in the case of a service scheduled at least 10 business days in advance, no later than 3 business days after the date the service is scheduled. The licensed facility must provide the estimate to the patient no later than 3 business days after the date the patient requests an estimate. The estimate may be based on the descriptive service bundles developed by the agency under s. 408.05(3)(c) unless the patient or prospective patient requests a more personalized and specific

estimate that accounts for the specific condition and characteristics of the patient or prospective patient. The licensed facility shall inform the patient or prospective patient that he or she may contact his or her health insurer for additional information concerning cost-sharing responsibilities.

2. In the estimate, the licensed facility shall provide to the patient or prospective patient information on the facility's financial assistance policy, including the application process, payment plans, and discounts and the facility's charity care policy and collection procedures.

3. The estimate shall clearly identify any facility fees and, if applicable, include a statement notifying the patient or prospective patient that a facility fee is included in the estimate, the purpose of the fee, and that the patient may pay less for the procedure or service at another facility or in another health care setting.

4. The licensed facility shall notify the patient or prospective patient of any revision to the estimate.

5. In the estimate, the licensed facility must notify the patient or prospective patient that services may be provided in the facility by the facility as well as by other health care providers that may separately bill the patient, if applicable.

6. Failure to timely provide the estimate pursuant to this paragraph shall result in a daily fine of $1,000 until the estimate is provided to the patient or prospective patient and the health insurer. The total fine per patient estimate may not exceed $10,000.

(d) Each licensed facility shall make available on its website a hyperlink to the health-related data, including

quality measures and statistics that are disseminated by the agency pursuant to s. 408.05. The licensed facility shall also take action to notify the public that such information is electronically available and provide a hyperlink to the agency's website.

(e)1. Upon request, and after the patient's discharge or release from a licensed facility, the facility must provide to the patient or to the patient's survivor or legal guardian, as appropriate, an itemized statement or a bill detailing in plain language, comprehensible to an ordinary layperson, the specific nature of charges or expenses incurred by the patient. The initial statement or bill shall be provided within 7 days after the patient's discharge or release or after a request for such statement or bill, whichever is later. The initial statement or bill must contain a statement of specific services received and expenses incurred by date and provider for such items of service, enumerating in detail as prescribed by the agency the constituent components of the services received within each department of the licensed facility and including unit price data on rates charged by the licensed facility. The statement or bill must also clearly identify any facility fee and explain the purpose of the fee. The statement or bill must identify each item as paid, pending payment by a third party, or pending payment by the patient, and must include the amount due, if applicable. If an amount is due from the patient, a due date must be included. The initial statement or bill must direct the patient or the patient's survivor or legal guardian, as appropriate, to contact the patient's insurer or health maintenance organization regarding the patient's cost-sharing

responsibilities.

2. Any subsequent statement or bill provided to a patient or to the patient's survivor or legal guardian, as appropriate, relating to the episode of care must include all of the information required by subparagraph 1., with any revisions clearly delineated.

3. Each statement or bill provided pursuant to this subsection:

a. Must include notice of physicians and other health care providers who bill separately.

b. May not include any generalized category of expenses such as "other" or "miscellaneous" or similar categories.

(2) Each itemized statement or bill must prominently display the telephone number of the licensed facility's patient liaison who is responsible for expediting the resolution of any billing dispute between the patient, or the patient's survivor or legal guardian, and the billing department.

(3) A licensed facility shall make available to a patient all records necessary for verification of the accuracy of the patient's statement or bill within 10 business days after the request for such records. The records must be made available in the licensed facility's offices and through electronic means that comply with the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. s. 1320d, as amended. Such records must be available to the patient before and after payment of the statement or bill. The licensed facility may not charge the patient for making such verification records available; however, the facility may charge fees for providing copies of records as specified in s. 395.3025(1).

(4) Each licensed facility shall establish a method for reviewing and responding to questions from patients concerning the patient's itemized statement or bill. Such response shall be provided within 7 business days after the date a question is received. If the patient is not satisfied with the response, the facility must provide the patient with the contact information of the agency to which the issue may be sent for review.

(5) Each licensed facility shall establish an internal process for reviewing and responding to grievances from patients. Such process must allow a patient to dispute charges that appear on the patient's itemized statement or bill. The licensed facility shall prominently post on its website and indicate in bold print on each itemized statement or bill the instructions for initiating a grievance and the direct contact information required to initiate the grievance process. The licensed facility must provide an initial response to a patient grievance within 7 business days after the patient formally files a grievance disputing all or a portion of an itemized statement or bill.

(6) Each licensed facility shall disclose to a patient, a prospective patient, or a patient's legal guardian whether a cost-sharing obligation for a particular covered health care service or item exceeds the charge that applies to an individual who pays cash or the cash equivalent for the same health care service or item in the absence of health insurance coverage. Failure to provide a disclosure in compliance with this subsection may result in a fine not to exceed $500 per incident.

Section 22. Section 396.223, Florida Statutes, is created to read:

396.223 Billing and collection activities.—

(1) As used in this section, the term "extraordinary collection action" means any of the following actions taken by a licensed facility against an individual in relation to obtaining payment of a bill for care covered under the licensed facility's financial assistance policy:

(a) Selling the individual's debt to another party.

(b) Reporting adverse information about the individual to consumer credit reporting agencies or credit bureaus.

(c) Deferring, denying, or requiring a payment before providing medically necessary care because of the individual's nonpayment of one or more bills for previously provided care covered under the licensed facility's financial assistance policy.

(d) Actions that require a legal or judicial process, including, but not limited to:

1. Placing a lien on the individual's property;

2. Foreclosing on the individual's real property;

3. Attaching or seizing the individual's bank account or any other personal property;

4. Commencing a civil action against the individual;

5. Causing the individual's arrest; or

6. Garnishing the individual's wages.

(2) A licensed facility may not engage in an extraordinary collection action against an individual to obtain payment for services:

(a) Before the licensed facility has made reasonable efforts to determine whether the individual is eligible for assistance under its financial assistance policy for the care

provided and, if eligible, before a decision is made by the facility on the patient's application for such financial assistance.

(b) Before the licensed facility has provided the individual with an itemized statement or bill.

(c) During an ongoing grievance process as described in s. 395.301(6) or an ongoing appeal of a claim adjudication.

(d) Before billing any applicable insurer and allowing the insurer to adjudicate a claim.

(e) For 30 days after notifying the patient in writing, by certified mail or by other traceable delivery method, that a collection action will commence absent additional action by the patient.

(f) While the individual:

1. Negotiates in good faith the final amount of a bill for services rendered; or

2. Complies with all terms of a payment plan with the licensed facility.

Section 23. Section 396.224, Florida Statutes, is created to read:

396.224 Patient records; penalties for alteration.—

(1) Any person who fraudulently alters, defaces, or falsifies any medical record, or causes or procures any of these offenses to be committed, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(2) A conviction under subsection (1) is also grounds for restriction, suspension, or termination of a license.

Section 24. Section 396.225, Florida Statutes, is created to read:

396.225 Patient and personnel records; copies; examination.—

(1) A licensed facility shall, upon written request, and only after discharge of the patient, furnish, in a timely manner, without delays for legal review, to any person admitted to the licensed facility for care and treatment or treated at the licensed facility, or to any such person's guardian, curator, or personal representative, or in the absence of one of those persons, to the next of kin of a decedent or the parent of a minor, or to anyone designated by such person in writing, a true and correct copy of all patient records, including X rays, and insurance information concerning such person, which records are in the possession of the licensed facility, provided that the person requesting such records agrees to pay a charge. The exclusive charge for copies of patient records may include sales tax and actual postage, and, except for nonpaper records that are subject to a charge not to exceed $2, may not exceed $1 per page. A fee of up to $1 may be charged for each year of records requested. These charges shall apply to all records furnished, whether directly from the licensed facility or from a copy service providing these services on behalf of the licensed facility. However, a patient whose records are copied or searched for the purpose of continuing to receive medical care is not required to pay a charge for copying or for the search. The licensed facility shall further allow any such person to examine the original records in its possession, or microforms or other suitable reproductions of the records, upon such reasonable terms as shall be imposed to ensure that the records will not be damaged, destroyed, or altered.

(2) Patient records are confidential and must not be disclosed without the consent of the patient or his or her legal representative, but appropriate disclosure may be made without such consent to:

(a) Licensed facility personnel, attending physicians, or other health care practitioners and providers currently involved in the care or treatment of the patient for use only in connection with the treatment of the patient.

(b) Licensed facility personnel only for administrative purposes or risk management and quality assurance functions.

(c) The agency, for purposes of health care cost containment.

(d) In any civil or criminal action, unless otherwise prohibited by law, upon the issuance of a subpoena from a court of competent jurisdiction and proper notice by the party seeking such records to the patient or his or her legal representative.

(e) The agency upon subpoena issued pursuant to s. 456.071, but the records obtained must be used solely for the purpose of the agency and the appropriate professional board in its investigation, prosecution, and appeal of disciplinary proceedings. If the agency requests copies of the records, the licensed facility shall charge no more than its actual copying costs, including reasonable staff time. The records must be sealed and must not be available to the public pursuant to s. 119.07(1) or any other statute providing access to records, nor may they be available to the public as part of the record of investigation for and prosecution in disciplinary proceedings made available to the public by the agency or the appropriate regulatory board. However, the agency must make available, upon

written request by a practitioner against whom probable cause has been found, any such records that form the basis of the determination of probable cause.

(f) The Medicaid Fraud Control Unit in the Department of Legal Affairs pursuant to s. 409.920.

(g) The Department of Financial Services, or an agent, employee, or independent contractor of the department who is auditing for unclaimed property pursuant to chapter 717.

(h) If applicable to a licensed facility, a regional poison control center for purposes of treating a poison episode under evaluation, case management of poison cases, or compliance with data collection and reporting requirements of s. 395.1027 and the professional organization that certifies poison control centers in accordance with federal law.

(3) The Department of Health may examine patient records of a licensed facility, whether held by the licensed facility or the agency, for the purpose of epidemiological investigations. The unauthorized release of information by agents of the department which would identify an individual patient is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(4) Patient records shall contain information required for completion of birth, death, and fetal death certificates.

(5)(a) If the content of any record of patient treatment is provided under this section, the recipient, if other than the patient or the patient's representative, may use such information only for the purpose provided and may not further disclose any information to any other person or entity, unless expressly permitted by the written consent of the patient. A

general authorization for the release of medical information is not sufficient for this purpose. The content of such patient treatment record is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(b) Absent a specific written release or authorization permitting utilization of patient information for solicitation or marketing the sale of goods or services, any use of that information for those purposes is prohibited.

(6) Patient records at ambulatory surgical centers are exempt from disclosure under s. 119.07(1), except as provided in subsections (1)-(5).

(7) A licensed facility may prescribe the content and custody of limited-access records which the facility may maintain on its employees. Such records shall be limited to information regarding evaluations of employee performance, including records forming the basis for evaluation and subsequent actions, and shall be open to inspection only by the employee and by officials of the licensed facility who are responsible for the supervision of the employee. The custodian of limited-access employee records shall release information from such records to other employers or only upon authorization in writing from the employee or upon order of a court of competent jurisdiction. Any licensed facility releasing such records pursuant to this chapter is considered to be acting in good faith and may not be held liable for information contained in such records, absent a showing that the facility maliciously falsified such records. Such limited-access employee records are exempt from s. 119.07(1) for a period of 5 years from the date such records are designated limited-access records.

(8) The home addresses, telephone numbers, and photographs of employees of any licensed facility who provide direct patient care or security services; the home addresses, telephone numbers, and places of employment of the spouses and children of such persons; and the names and locations of schools and day care facilities attended by the children of such persons are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. However, any state or federal agency that is authorized to have access to such information by any provision of law shall be granted such access in the furtherance of its statutory duties, notwithstanding this subsection. The Department of Financial Services, or an agent, employee, or independent contractor of the department who is auditing for unclaimed property pursuant to chapter 717, shall be granted access to the name, address, and social security number of any employee owed unclaimed property.

(9) The home addresses, telephone numbers, and photographs of employees of any licensed facility who have a reasonable belief, based upon specific circumstances that have been reported in accordance with the procedure adopted by the licensed facility, that release of the information may be used to threaten, intimidate, harass, inflict violence upon, or defraud the employee or any member of the employee's family; the home addresses, telephone numbers, and places of employment of the spouses and children of such persons; and the names and locations of schools and day care facilities attended by the children of such persons are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. However, any state or federal agency that is authorized to have

access to such information by any provision of law shall be granted such access in the furtherance of its statutory duties, notwithstanding this subsection. The licensed facility shall maintain the confidentiality of the personal information only if the employee submits a written request for confidentiality to the licensed facility.

Section 25. Paragraph (d) of subsection (2) of section 383.145, Florida Statutes, is amended to read:

383.145 Newborn, infant, and toddler hearing screening.—

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

(d) "Hospital" means a facility as defined in s. 395.002 ~~s. 395.002(13)~~ and licensed under chapter 395 and part II of chapter 408.

Section 26. Paragraph (b) of subsection (4) of section 383.50, Florida Statutes, is amended to read:

383.50 Treatment of surrendered infant.—

(4)

(b) Each hospital of this state subject to s. 395.1041 shall, and any other hospital may, admit and provide all necessary emergency services and care, as defined in s. 395.002 ~~s. 395.002(9)~~, to any infant left with the hospital in accordance with this section. The hospital or any of its medical staff or licensed health care professionals shall consider these actions as implied consent for treatment, and a hospital accepting physical custody of an infant has implied consent to perform all necessary emergency services and care. The hospital or any of its medical staff or licensed health care professionals are immune from criminal or civil liability for acting in good faith in accordance with this section. This

subsection does not limit liability for negligence.

Section 27. Subsection (2) of section 385.211, Florida Statutes, is amended to read:

385.211 Refractory and intractable epilepsy treatment and research at recognized medical centers.—

(2) Notwithstanding chapter 893, medical centers recognized pursuant to s. 381.925, or an academic medical research institution legally affiliated with a licensed children's specialty hospital as defined in s. 395.002 ~~s. 395.002(28)~~ that contracts with the Department of Health, may conduct research on cannabidiol and low-THC cannabis. This research may include, but is not limited to, the agricultural development, production, clinical research, and use of liquid medical derivatives of cannabidiol and low-THC cannabis for the treatment for refractory or intractable epilepsy. The authority for recognized medical centers to conduct this research is derived from 21 C.F.R. parts 312 and 316. Current state or privately obtained research funds may be used to support the activities described in this section.

Section 28. Subsection (8) of section 390.011, Florida Statutes, is amended to read:

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

(8) "Hospital" means a facility as defined in s. 395.002 ~~s. 395.002(12)~~ and licensed under chapter 395 and part II of chapter 408.

Section 29. Subsection (7) of section 394.4787, Florida Statutes, is amended to read:

394.4787 Definitions; ss. 394.4786, 394.4787, 394.4788, and 394.4789.—As used in this section and ss. 394.4786, 394.4788,

and 394.4789:

(7) "Specialty psychiatric hospital" means a hospital licensed by the agency pursuant to s. 395.002 ~~s. 395.002(28)~~ and part II of chapter 408 as a specialty psychiatric hospital.

Section 30. Section 395.001, Florida Statutes, is amended to read:

395.001 Legislative intent.—It is the intent of the Legislature to provide for the protection of public health and safety in the establishment, construction, maintenance, and operation of hospitals ~~and ambulatory surgical centers~~ by providing for licensure of same and for the development, establishment, and enforcement of minimum standards with respect thereto.

Section 31. Subsections (3), (10), (17), (23), and (28) of section 395.002, Florida Statutes, are amended to read:

395.002 Definitions.—As used in this chapter:

~~(3) "Ambulatory surgical center" means a facility, the primary purpose of which is to provide elective surgical care, in which the patient is admitted to and discharged from such facility within 24 hours, and which is not part of a hospital. However, a facility existing for the primary purpose of performing terminations of pregnancy, an office maintained by a physician for the practice of medicine, or an office maintained for the practice of dentistry may not be construed to be an ambulatory surgical center, provided that any facility or office which is certified or seeks certification as a Medicare ambulatory surgical center shall be licensed as an ambulatory surgical center pursuant to s. 395.003.~~

(9) ~~(10)~~ "General hospital" means any facility which meets

the provisions of subsection (11) ~~(12)~~ and which regularly makes its facilities and services available to the general population.

(16) ~~(17)~~ "Licensed facility" means a hospital ~~or ambulatory surgical center~~ licensed in accordance with this chapter.

(22) ~~(23)~~ "Premises" means those buildings, beds, and equipment located at the address of the licensed facility and all other buildings, beds, and equipment for the provision of hospital ~~or ambulatory surgical~~ care located in such reasonable proximity to the address of the licensed facility as to appear to the public to be under the dominion and control of the licensee. For any licensee that is a teaching hospital as defined in s. 408.07, reasonable proximity includes any buildings, beds, services, programs, and equipment under the dominion and control of the licensee that are located at a site with a main address that is within 1 mile of the main address of the licensed facility; and all such buildings, beds, and equipment may, at the request of a licensee or applicant, be included on the facility license as a single premises.

(27) ~~(28)~~ "Specialty hospital" means any facility which meets the provisions of subsection (11) ~~(12)~~, and which regularly makes available either:

(a) The range of medical services offered by general hospitals but restricted to a defined age or gender group of the population;

(b) A restricted range of services appropriate to the diagnosis, care, and treatment of patients with specific categories of medical or psychiatric illnesses or disorders; or

(c) Intensive residential treatment programs for children and adolescents as defined in subsection (15) ~~(16)~~.

Section 32. Subsection (1) and paragraph (d) of subsection (5) of section 395.003, Florida Statutes, are amended to read:

395.003 Licensure; denial, suspension, and revocation.—

(1)(a) The requirements of part II of chapter 408 apply to the provision of services that require licensure pursuant to ss. 395.001-395.1065 and part II of chapter 408 and to entities licensed by or applying for such licensure from the Agency for Health Care Administration pursuant to ss. 395.001-395.1065. A license issued by the agency is required in order to operate a hospital ~~or ambulatory surgical center~~ in this state.

(b)1. It is unlawful for a person to use or advertise to the public, in any way or by any medium whatsoever, any facility as a "hospital" ~~or "ambulatory surgical center"~~ unless such facility has first secured a license under this chapter ~~part~~.

2. This part does not apply to veterinary hospitals or to commercial business establishments using the word "hospital" ~~or "ambulatory surgical center"~~ as a part of a trade name if no treatment of human beings is performed on the premises of such establishments.

(5)

(d) A hospital, ~~an ambulatory surgical center,~~ a specialty hospital, or an urgent care center shall comply with ss. 627.64194 and 641.513 as a condition of licensure.

Section 33. Subsections (2), (3), and (9) of section 395.1055, Florida Statutes, are amended to read:

395.1055 Rules and enforcement.—

(2) Separate standards may be provided for general and specialty hospitals~~, ambulatory surgical centers,~~ and statutory rural hospitals as defined in s. 395.602.

~~(3) The agency shall adopt rules that establish minimum standards for pediatric patient care in ambulatory surgical centers to ensure the safe and effective delivery of surgical care to children in ambulatory surgical centers. Such standards must include quality of care, nurse staffing, physician staffing, and equipment standards. Ambulatory surgical centers may not provide operative procedures to children under 18 years of age which require a length of stay past midnight until such standards are established by rule.~~

(8)~~(9)~~ The agency may not adopt any rule governing the design, construction, erection, alteration, modification, repair, or demolition of any public or private hospital or~~,~~ intermediate residential treatment facility~~, or ambulatory surgical center~~. It is the intent of the Legislature to preempt that function to the Florida Building Commission and the State Fire Marshal through adoption and maintenance of the Florida Building Code and the Florida Fire Prevention Code. However, the agency shall provide technical assistance to the commission and the State Fire Marshal in updating the construction standards of the Florida Building Code and the Florida Fire Prevention Code which govern hospitals and~~,~~ intermediate residential treatment facilities~~, and ambulatory surgical centers~~.

Section 34. Subsection (3) of section 395.10973, Florida Statutes, is amended to read:

395.10973 Powers and duties of the agency.—It is the function of the agency to:

(3) Enforce the special-occupancy provisions of the Florida Building Code which apply to hospitals and~~,~~ intermediate residential treatment facilities~~, and ambulatory surgical~~

~~centers~~ in conducting any inspection authorized by this chapter and part II of chapter 408.

Section 35. Subsection (8) of section 395.3025, Florida Statutes, is amended to read:

395.3025 Patient and personnel records; copies; examination.—

(8) Patient records at hospitals ~~and ambulatory surgical centers~~ are exempt from disclosure under s. 119.07(1), except as provided by subsections (1)-(5).

Section 36. Subsection (3) of section 395.607, Florida Statutes, is amended to read:

395.607 Rural emergency hospitals.—

(3) Notwithstanding s. 395.002 ~~s. 395.002(12)~~, a rural emergency hospital is not required to offer acute inpatient care or care beyond 24 hours, or to make available treatment facilities for surgery, obstetrical care, or similar services in order to be deemed a hospital as long as it maintains its designation as a rural emergency hospital, and may be required to make such services available only if it ceases to be designated as a rural emergency hospital.

Section 37. Paragraphs (b) and (c) of subsection (1) of section 395.701, Florida Statutes, are amended to read:

395.701 Annual assessments on net operating revenues for inpatient and outpatient services to fund public medical assistance; administrative fines for failure to pay assessments when due; exemption.—

(1) For the purposes of this section, the term:

(b) "Gross operating revenue" or "gross revenue" means the sum of daily hospital service charges, ~~ambulatory service~~

~~charges,~~ ancillary service charges, and other operating revenue.

(c) "Hospital" means a health care institution as defined in s. 395.202 ~~s. 395.002(12)~~, but does not include any hospital operated by a state agency.

Section 38. Paragraph (b) of subsection (3) of section 400.518, Florida Statutes, is amended to read:

400.518 Prohibited referrals to home health agencies.—

(3)

(b) A physician who violates this section is subject to disciplinary action by the appropriate board under s. 458.331(2) or s. 459.015(2). A hospital ~~or ambulatory surgical center~~ that violates this section is subject to s. 395.0185(2). An ambulatory surgical center that violates this section is subject to s. 396.209.

Section 39. Paragraph (h) of subsection (5) of section 400.93, Florida Statutes, is amended to read:

400.93 Licensure required; exemptions; unlawful acts; penalties.—

(5) The following are exempt from home medical equipment provider licensure, unless they have a separate company, corporation, or division that is in the business of providing home medical equipment and services for sale or rent to consumers at their regular or temporary place of residence pursuant to the provisions of this part:

(h) Hospitals licensed under chapter 395 and ambulatory surgical centers licensed under chapter 396 ~~395~~.

Section 40. Paragraph (i) of subsection (1) of section 400.9935, Florida Statutes, is amended to read:

400.9935 Clinic responsibilities.—

(1) Each clinic shall appoint a medical director or clinic director who shall agree in writing to accept legal responsibility for the following activities on behalf of the clinic. The medical director or the clinic director shall:

(i) Ensure that the clinic publishes a schedule of charges for the medical services offered to patients. The schedule must include the prices charged to an uninsured person paying for such services by cash, check, credit card, or debit card. The schedule may group services by price levels, listing services in each price level. The schedule must be posted in a conspicuous place in the reception area of any clinic that is considered an urgent care center as defined in s. 395.002 ~~s. 395.002(30)(b)~~ and must include, but is not limited to, the 50 services most frequently provided by the clinic. The posting may be a sign that must be at least 15 square feet in size or through an electronic messaging board that is at least 3 square feet in size. The failure of a clinic, including a clinic that is considered an urgent care center, to publish and post a schedule of charges as required by this section shall result in a fine of not more than $1,000, per day, until the schedule is published and posted.

Section 41. Paragraph (b) of subsection (2) of section 401.272, Florida Statutes, is amended to read:

401.272 Emergency medical services community health care.—

(2) Notwithstanding any other provision of law to the contrary:

(b) Paramedics and emergency medical technicians shall operate under the medical direction of a physician through two-way communication or pursuant to established standing orders or

protocols and within the scope of their training when a patient is not transported to an emergency department or is transported to a facility other than a hospital as defined in s. 395.002 ~~s. 395.002(12)~~.

Section 42. Subsections (4) and (5) of section 408.051, Florida Statutes, are amended to read:

408.051 Florida Electronic Health Records Exchange Act.—

(4) EMERGENCY RELEASE OF IDENTIFIABLE HEALTH RECORD.—A health care provider may release or access an identifiable health record of a patient without the patient's consent for use in the treatment of the patient for an emergency medical condition, as defined in s. 395.002 ~~s. 395.002(8)~~, when the health care provider is unable to obtain the patient's consent or the consent of the patient representative due to the patient's condition or the nature of the situation requiring immediate medical attention. A health care provider who in good faith releases or accesses an identifiable health record of a patient in any form or medium under this subsection is immune from civil liability for accessing or releasing an identifiable health record.

(5) HOSPITAL DATA.—A hospital as defined in s. 395.002 ~~s. 395.002(12)~~ which maintains certified electronic health record technology must make available admit, transfer, and discharge data to the agency's Florida Health Information Exchange program for the purpose of supporting public health data registries and patient care coordination. The agency may adopt rules to implement this subsection.

Section 43. Subsection (6) of section 408.07, Florida Statutes, is amended to read:

408.07 Definitions.—As used in this chapter, with the exception of ss. 408.031-408.045, the term:

(6) "Ambulatory surgical center" means a facility licensed as an ambulatory surgical center under chapter 396 ~~395~~.

Section 44. Subsection (9) of section 408.802, Florida Statutes, is amended to read:

408.802 Applicability.—This part applies to the provision of services that require licensure as defined in this part and to the following entities licensed, registered, or certified by the agency, as described in chapters 112, 383, 390, 394, 395, 400, 429, 440, and 765:

(9) Ambulatory surgical centers, as provided under ~~part I of~~ chapter 396 ~~395~~.

Section 45. Subsection (9) of section 408.820, Florida Statutes, is amended to read:

408.820 Exemptions.—Except as prescribed in authorizing statutes, the following exemptions shall apply to specified requirements of this part:

(9) Ambulatory surgical centers, as provided under ~~part I of~~ chapter 396 ~~395~~, are exempt from s. 408.810(7)-(10).

Section 46. Subsection (8) of section 409.905, Florida Statutes, is amended to read:

409.905 Mandatory Medicaid services.—The agency may make payments for the following services, which are required of the state by Title XIX of the Social Security Act, furnished by Medicaid providers to recipients who are determined to be eligible on the dates on which the services were provided. Any service under this section shall be provided only when medically necessary and in accordance with state and federal law.

Mandatory services rendered by providers in mobile units to Medicaid recipients may be restricted by the agency. Nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, number of services, or any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216.

(8) NURSING FACILITY SERVICES.—The agency shall pay for 24-hour-a-day nursing and rehabilitative services for a recipient in a nursing facility licensed under part II of chapter 400 or in a rural hospital, as defined in s. 395.602, or in a Medicare certified skilled nursing facility operated by a hospital, as defined in s. 395.002 ~~by s. 395.002(10)~~, that is licensed under part I of chapter 395, and in accordance with provisions set forth in s. 409.908(2)(a), which services are ordered by and provided under the direction of a licensed physician. However, if a nursing facility has been destroyed or otherwise made uninhabitable by natural disaster or other emergency and another nursing facility is not available, the agency must pay for similar services temporarily in a hospital licensed under part I of chapter 395 provided federal funding is approved and available. The agency shall pay only for bed-hold days if the facility has an occupancy rate of 95 percent or greater. The agency is authorized to seek any federal waivers to implement this policy.

Section 47. Subsection (3) of section 409.906, Florida Statutes, is amended to read:

409.906 Optional Medicaid services.—Subject to specific

appropriations, the agency may make payments for services which are optional to the state under Title XIX of the Social Security Act and are furnished by Medicaid providers to recipients who are determined to be eligible on the dates on which the services were provided. Any optional service that is provided shall be provided only when medically necessary and in accordance with state and federal law. Optional services rendered by providers in mobile units to Medicaid recipients may be restricted or prohibited by the agency. Nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, or number of services, or making any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216. If necessary to safeguard the state's systems of providing services to elderly and disabled persons and subject to the notice and review provisions of s. 216.177, the Governor may direct the Agency for Health Care Administration to amend the Medicaid state plan to delete the optional Medicaid service known as "Intermediate Care Facilities for the Developmentally Disabled." Optional services may include:

(3) AMBULATORY SURGICAL CENTER SERVICES.—The agency may pay for services provided to a recipient in an ambulatory surgical center licensed under ~~part I of~~ chapter 396 ~~395~~, by or under the direction of a licensed physician or dentist.

Section 48. Paragraph (b) of subsection (1) of section 409.975, Florida Statutes, is amended to read:

409.975 Managed care plan accountability.—In addition to the requirements of s. 409.967, plans and providers

participating in the managed medical assistance program shall comply with the requirements of this section.

(1) PROVIDER NETWORKS.—Managed care plans must develop and maintain provider networks that meet the medical needs of their enrollees in accordance with standards established pursuant to s. 409.967(2)(c). Except as provided in this section, managed care plans may limit the providers in their networks based on credentials, quality indicators, and price.

(b) Certain providers are statewide resources and essential providers for all managed care plans in all regions. All managed care plans must include these essential providers in their networks. Statewide essential providers include:

1. Faculty plans of Florida medical schools.

2. Regional perinatal intensive care centers as defined in s. 383.16(2).

3. Hospitals licensed as specialty children's hospitals as defined in s. 395.002 ~~s. 395.002(28)~~.

4. Accredited and integrated systems serving medically complex children which comprise separately licensed, but commonly owned, health care providers delivering at least the following services: medical group home, in-home and outpatient nursing care and therapies, pharmacy services, durable medical equipment, and Prescribed Pediatric Extended Care.

5. Florida cancer hospitals that meet the criteria in 42 U.S.C. s. 1395ww(d)(1)(B)(v).

Managed care plans that have not contracted with all statewide essential providers in all regions as of the first date of recipient enrollment must continue to negotiate in good faith.

Payments to physicians on the faculty of nonparticipating Florida medical schools shall be made at the applicable Medicaid rate. Payments for services rendered by regional perinatal intensive care centers shall be made at the applicable Medicaid rate as of the first day of the contract between the agency and the plan. Except for payments for emergency services, payments to nonparticipating specialty children's hospitals, and payments to nonparticipating Florida cancer hospitals that meet the criteria in 42 U.S.C. s. 1395ww(d)(1)(B)(v), shall equal the highest rate established by contract between that provider and any other Medicaid managed care plan.

Section 49. Subsection (5) of section 456.041, Florida Statutes, is amended to read:

456.041 Practitioner profile; creation.—

(5) The Department of Health shall include the date of a hospital or ambulatory surgical center disciplinary action taken by a licensed hospital or an ambulatory surgical center, in accordance with the requirements of s. 395.0193 and s. 396.212, in the practitioner profile. The department shall state whether the action related to professional competence and whether it related to the delivery of services to a patient.

Section 50. Paragraph (n) of subsection (3) of section 456.053, Florida Statutes, is amended to read:

456.053 Financial arrangements between referring health care providers and providers of health care services.—

(3) DEFINITIONS.—For the purpose of this section, the word, phrase, or term:

(n) "Referral" means any referral of a patient by a health care provider for health care services, including, without

limitation:

1. The forwarding of a patient by a health care provider to another health care provider or to an entity which provides or supplies designated health services or any other health care item or service; or

2. The request or establishment of a plan of care by a health care provider, which includes the provision of designated health services or other health care item or service.

3. The following orders, recommendations, or plans of care do ~~shall~~ not constitute a referral by a health care provider:

a. By a radiologist for diagnostic-imaging services.

b. By a physician specializing in the provision of radiation therapy services for such services.

c. By a medical oncologist for drugs and solutions to be prepared and administered intravenously to such oncologist's patient, as well as for the supplies and equipment used in connection therewith to treat such patient for cancer and the complications thereof.

d. By a cardiologist for cardiac catheterization services.

e. By a pathologist for diagnostic clinical laboratory tests and pathological examination services, if furnished by or under the supervision of such pathologist pursuant to a consultation requested by another physician.

f. By a health care provider who is the sole provider or member of a group practice for designated health services or other health care items or services that are prescribed or provided solely for such referring health care provider's or group practice's own patients, and that are provided or performed by or under the supervision of such referring health

care provider or group practice if such supervision complies with all applicable Medicare payment and coverage rules for services; provided, however, a physician licensed pursuant to chapter 458, chapter 459, chapter 460, or chapter 461 or an advanced practice registered nurse registered under s. 464.0123 may refer a patient to a sole provider or group practice for diagnostic imaging services, excluding radiation therapy services, for which the sole provider or group practice billed both the technical and the professional fee for or on behalf of the patient, if the referring physician or advanced practice registered nurse registered under s. 464.0123 has no investment interest in the practice. The diagnostic imaging service referred to a group practice or sole provider must be a diagnostic imaging service normally provided within the scope of practice to the patients of the group practice or sole provider. The group practice or sole provider may accept no more than 15 percent of their patients receiving diagnostic imaging services from outside referrals, excluding radiation therapy services. However, the 15 percent limitation of this sub-subparagraph and the requirements of subparagraph (4)(a)2. do not apply to a group practice entity that owns an accountable care organization or an entity operating under an advanced alternative payment model according to federal regulations if such entity provides diagnostic imaging services and has more than 30,000 patients enrolled per year.

g. By a health care provider for services provided by an ambulatory surgical center licensed under chapter 396 ~~395~~.

h. By a urologist for lithotripsy services.

i. By a dentist for dental services performed by an

employee of or health care provider who is an independent contractor with the dentist or group practice of which the dentist is a member.

j. By a physician for infusion therapy services to a patient of that physician or a member of that physician's group practice.

k. By a nephrologist for renal dialysis services and supplies, except laboratory services.

l. By a health care provider whose principal professional practice consists of treating patients in their private residences for services to be rendered in such private residences, except for services rendered by a home health agency licensed under chapter 400. For purposes of this sub-subparagraph, the term "private residences" includes patients' private homes, independent living centers, and assisted living facilities, but does not include skilled nursing facilities.

m. By a health care provider for sleep-related testing.

Section 51. Subsection (3) of section 456.056, Florida Statutes, is amended to read:

456.056 Treatment of Medicare beneficiaries; refusal, emergencies, consulting physicians.—

(3) If treatment is provided to a beneficiary for an emergency medical condition as defined in s. 395.002 ~~s. 395.002(8)(a)~~, the physician must accept Medicare assignment provided that the requirement to accept Medicare assignment for an emergency medical condition does ~~shall~~ not apply to treatment rendered after the patient is stabilized~~,~~ or ~~the~~ treatment that is unrelated to the original emergency medical condition. For the purpose of this subsection "stabilized" is defined to mean

with respect to an emergency medical condition, that no material deterioration of the condition is likely within reasonable medical probability.

Section 52. Subsection (3) of section 458.3145, Florida Statutes, is amended to read:

458.3145 Medical faculty certificate.—

(3) The holder of a medical faculty certificate issued under this section has all rights and responsibilities prescribed by law for the holder of a license issued under s. 458.311, except as specifically provided otherwise by law. Such responsibilities include compliance with continuing medical education requirements as set forth by rule of the board. A hospital or ambulatory surgical center licensed under chapter 396 ~~395~~, health maintenance organization certified under chapter 641, insurer as defined in s. 624.03, multiple-employer welfare arrangement as defined in s. 624.437, or any other entity in this state, in considering and acting upon an application for staff membership, clinical privileges, or other credentials as a health care provider, may not deny the application of an otherwise qualified physician for such staff membership, clinical privileges, or other credentials solely because the applicant is a holder of a medical faculty certificate under this section.

Section 53. Subsection (2) of section 458.320, Florida Statutes, is amended to read:

458.320 Financial responsibility.—

(2) Physicians who perform surgery in an ambulatory surgical center licensed under chapter 396 ~~395~~ and, as a continuing condition of hospital staff privileges, physicians

who have staff privileges must also establish financial responsibility by one of the following methods:

(a) Establishing and maintaining an escrow account consisting of cash or assets eligible for deposit in accordance with s. 625.52 in the per claim amounts specified in paragraph (b). The required escrow amount set forth in this paragraph may not be used for litigation costs or attorney ~~attorney's~~ fees for the defense of any medical malpractice claim.

(b) Obtaining and maintaining professional liability coverage in an amount not less than $250,000 per claim, with a minimum annual aggregate of not less than $750,000 from an authorized insurer as defined under s. 624.09, from a surplus lines insurer as defined under s. 626.914(2), from a risk retention group as defined under s. 627.942, from the Joint Underwriting Association established under s. 627.351(4), through a plan of self-insurance as provided in s. 627.357, or through a plan of self-insurance which meets the conditions specified for satisfying financial responsibility in s. 766.110. The required coverage amount set forth in this paragraph may not be used for litigation costs or attorney ~~attorney's~~ fees for the defense of any medical malpractice claim.

(c) Obtaining and maintaining an unexpired irrevocable letter of credit, established pursuant to chapter 675, in an amount not less than $250,000 per claim, with a minimum aggregate availability of credit of not less than $750,000. The letter of credit must be payable to the physician as beneficiary upon presentment of a final judgment indicating liability and awarding damages to be paid by the physician or upon presentment of a settlement agreement signed by all parties to such

agreement when such final judgment or settlement is a result of a claim arising out of the rendering of, or the failure to render, medical care and services. The letter of credit may not be used for litigation costs or attorney ~~attorney's~~ fees for the defense of any medical malpractice claim. The letter of credit must be nonassignable and nontransferable. The letter of credit must be issued by any bank or savings association organized and existing under the laws of this state or any bank or savings association organized under the laws of the United States which has its principal place of business in this state or has a branch office that is authorized under the laws of this state or of the United States to receive deposits in this state.

This subsection shall be inclusive of the coverage in subsection (1).

Section 54. Paragraph (f) of subsection (4) of section 458.351, Florida Statutes, is amended to read:

458.351 Reports of adverse incidents in office practice settings.—

(4) For purposes of notification to the department pursuant to this section, the term "adverse incident" means an event over which the physician or licensee could exercise control and which is associated in whole or in part with a medical intervention, rather than the condition for which such intervention occurred, and which results in the following patient injuries:

(f) Any condition that required the transfer of a patient to a hospital licensed under chapter 395 from an ambulatory surgical center licensed under chapter 396 ~~395~~ or any facility or any office maintained by a physician for the practice of

medicine which is not licensed under chapter 395.

Section 55. Subsection (2) of section 459.0085, Florida Statutes, is amended to read:

459.0085 Financial responsibility.—

(2) Osteopathic physicians who perform surgery in an ambulatory surgical center licensed under chapter 396 ~~395~~ and, as a continuing condition of hospital staff privileges, osteopathic physicians who have staff privileges must also establish financial responsibility by one of the following methods:

(a) Establishing and maintaining an escrow account consisting of cash or assets eligible for deposit in accordance with s. 625.52 in the per-claim amounts specified in paragraph (b). The required escrow amount set forth in this paragraph may not be used for litigation costs or attorney ~~attorney's~~ fees for the defense of any medical malpractice claim.

(b) Obtaining and maintaining professional liability coverage in an amount not less than $250,000 per claim, with a minimum annual aggregate of not less than $750,000 from an authorized insurer as defined under s. 624.09, from a surplus lines insurer as defined under s. 626.914(2), from a risk retention group as defined under s. 627.942, from the Joint Underwriting Association established under s. 627.351(4), through a plan of self-insurance as provided in s. 627.357, or through a plan of self-insurance that meets the conditions specified for satisfying financial responsibility in s. 766.110. The required coverage amount set forth in this paragraph may not be used for litigation costs or attorney ~~attorney's~~ fees for the defense of any medical malpractice claim.

(c) Obtaining and maintaining an unexpired, irrevocable letter of credit, established pursuant to chapter 675, in an amount not less than $250,000 per claim, with a minimum aggregate availability of credit of not less than $750,000. The letter of credit must be payable to the osteopathic physician as beneficiary upon presentment of a final judgment indicating liability and awarding damages to be paid by the osteopathic physician or upon presentment of a settlement agreement signed by all parties to such agreement when such final judgment or settlement is a result of a claim arising out of the rendering of, or the failure to render, medical care and services. The letter of credit may not be used for litigation costs or attorney ~~attorney's~~ fees for the defense of any medical malpractice claim. The letter of credit must be nonassignable and nontransferable. The letter of credit must be issued by any bank or savings association organized and existing under the laws of this state or any bank or savings association organized under the laws of the United States which has its principal place of business in this state or has a branch office that is authorized under the laws of this state or of the United States to receive deposits in this state.

This subsection shall be inclusive of the coverage in subsection (1).

Section 56. Paragraph (f) of subsection (4) of section 459.026, Florida Statutes, is amended to read:

459.026 Reports of adverse incidents in office practice settings.—

(4) For purposes of notification to the department pursuant

to this section, the term "adverse incident" means an event over which the physician or licensee could exercise control and which is associated in whole or in part with a medical intervention, rather than the condition for which such intervention occurred, and which results in the following patient injuries:

(f) Any condition that required the transfer of a patient to a hospital licensed under chapter 395 from an ambulatory surgical center licensed under chapter 396 ~~395~~ or any facility or any office maintained by a physician for the practice of medicine which is not licensed under chapter 395.

Section 57. Paragraph (e) of subsection (1) of section 465.0125, Florida Statutes, is amended to read:

465.0125 Consultant pharmacist license; application, renewal, fees; responsibilities; rules.—

(1) The department shall issue or renew a consultant pharmacist license upon receipt of an initial or renewal application that conforms to the requirements for consultant pharmacist initial licensure or renewal as adopted by the board by rule and a fee set by the board not to exceed $250. To be licensed as a consultant pharmacist, a pharmacist must complete additional training as required by the board.

(e) For purposes of this subsection, the term "health care facility" means a ~~an ambulatory surgical center or~~ hospital licensed under chapter 395, an ambulatory surgical center licensed under chapter 396, an alcohol or chemical dependency treatment center licensed under chapter 397, an inpatient hospice licensed under part IV of chapter 400, a nursing home licensed under part II of chapter 400, an ambulatory care center as defined in s. 408.07, or a nursing home component under

chapter 400 within a continuing care facility licensed under chapter 651.

Section 58. Paragraph (l) of subsection (1) of section 468.505, Florida Statutes, is amended to read:

468.505 Exemptions; exceptions.—

(1) Nothing in this part may be construed as prohibiting or restricting the practice, services, or activities of:

(l) A person employed by a nursing facility exempt from licensing under s. 395.002 ~~s. 395.002(12)~~, or a person exempt from licensing under s. 464.022.

Section 59. Paragraph (h) of subsection (4) of section 627.351, Florida Statutes, is amended to read:

627.351 Insurance risk apportionment plans.—

(4) MEDICAL MALPRACTICE RISK APPORTIONMENT; ASSOCIATION CONTRACTS AND PURCHASES.—

(h) As used in this subsection:

1. "Health care provider" means hospitals licensed under chapter 395; physicians licensed under chapter 458; osteopathic physicians licensed under chapter 459; podiatric physicians licensed under chapter 461; dentists licensed under chapter 466; chiropractic physicians licensed under chapter 460; naturopaths licensed under chapter 462; nurses licensed under part I of chapter 464; midwives licensed under chapter 467; physician assistants licensed under chapter 458 or chapter 459; physical therapists and physical therapist assistants licensed under chapter 486; health maintenance organizations certificated under part I of chapter 641; ambulatory surgical centers licensed under chapter 396 ~~395~~; other medical facilities as defined in subparagraph 2.; blood banks, plasma centers, industrial

clinics, and renal dialysis facilities; or professional associations, partnerships, corporations, joint ventures, or other associations for professional activity by health care providers.

2. "Other medical facility" means a facility the primary purpose of which is to provide human medical diagnostic services or a facility providing nonsurgical human medical treatment, to which facility the patient is admitted and from which facility the patient is discharged within the same working day, and which facility is not part of a hospital. However, a facility existing for the primary purpose of performing terminations of pregnancy or an office maintained by a physician or dentist for the practice of medicine may not be construed to be an "other medical facility."

3. "Health care facility" means any hospital licensed under chapter 395, health maintenance organization certificated under part I of chapter 641, ambulatory surgical center licensed under chapter 396 ~~395~~, or other medical facility as defined in subparagraph 2.

Section 60. Paragraph (b) of subsection (1) of section 627.357, Florida Statutes, is amended to read:

627.357 Medical malpractice self-insurance.—

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

(b) "Health care provider" means any:

1. Hospital licensed under chapter 395.

2. Physician licensed, or physician assistant licensed, under chapter 458.

3. Osteopathic physician or physician assistant licensed under chapter 459.

4. Podiatric physician licensed under chapter 461.

5. Health maintenance organization certificated under part I of chapter 641.

6. Ambulatory surgical center licensed under chapter 396 ~~395~~.

7. Chiropractic physician licensed under chapter 460.

8. Psychologist licensed under chapter 490.

9. Optometrist licensed under chapter 463.

10. Dentist licensed under chapter 466.

11. Pharmacist licensed under chapter 465.

12. Registered nurse, licensed practical nurse, or advanced practice registered nurse licensed or registered under part I of chapter 464.

13. Other medical facility.

14. Professional association, partnership, corporation, joint venture, or other association established by the individuals set forth in subparagraphs 2., 3., 4., 7., 8., 9., 10., 11., and 12. for professional activity.

Section 61. Section 627.6056, Florida Statutes, is amended to read:

627.6056 Coverage for ambulatory surgical center service.—An ~~No~~ individual health insurance policy providing coverage on an expense-incurred basis or individual service or indemnity-type contract issued by a nonprofit corporation, of any kind or description, may not ~~shall~~ be issued unless coverage provided for any service performed in an ambulatory surgical center, as defined in s. 396.202 ~~s. 395.002~~, is provided if such service would have been covered under the terms of the policy or contract as an eligible inpatient service.

Section 62. Subsection (3) of section 627.6405, Florida Statutes, is amended to read:

627.6405 Decreasing inappropriate utilization of emergency care.—

(3) As a disincentive for insureds to inappropriately use emergency department services for nonemergency care, health insurers may require higher copayments for urgent care or primary care provided in an emergency department and higher copayments for use of out-of-network emergency departments. Higher copayments may not be charged for the utilization of the emergency department for emergency care. For the purposes of this section, the term "emergency care" has the same meaning as the term "emergency services and care" as defined in s. 395.002 ~~s. 395.002(9)~~ and includes services provided to rule out an emergency medical condition.

Section 63. Paragraph (b) of subsection (1) of section 627.64194, Florida Statutes, is amended to read:

627.64194 Coverage requirements for services provided by nonparticipating providers; payment collection limitations.—

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

(b) "Facility" means a licensed facility as defined in s. 395.002 ~~s. 395.002(17)~~ and an urgent care center as defined in s. 395.002.

Section 64. Section 627.6616, Florida Statutes, is amended to read:

627.6616 Coverage for ambulatory surgical center service.—A ~~No~~ group health insurance policy providing coverage on an expense-incurred basis, or group service or indemnity-type contract issued by a nonprofit corporation, or self-insured

group health benefit plan or trust, of any kind or description, may not ~~shall~~ be issued unless coverage provided for any service performed in an ambulatory surgical center, as defined in s. 396.202 ~~s. 395.002~~, is provided if such service would have been covered under the terms of the policy or contract as an eligible inpatient service.

Section 65. Paragraph (a) of subsection (1) of section 627.736, Florida Statutes, is amended to read:

627.736 Required personal injury protection benefits; exclusions; priority; claims.—

(1) REQUIRED BENEFITS.—An insurance policy complying with the security requirements of s. 627.733 must provide personal injury protection to the named insured, relatives residing in the same household unless excluded under s. 627.747, persons operating the insured motor vehicle, passengers in the motor vehicle, and other persons struck by the motor vehicle and suffering bodily injury while not an occupant of a self-propelled vehicle, subject to subsection (2) and paragraph (4)(e), to a limit of $10,000 in medical and disability benefits and $5,000 in death benefits resulting from bodily injury, sickness, disease, or death arising out of the ownership, maintenance, or use of a motor vehicle as follows:

(a) *Medical benefits.*—Eighty percent of all reasonable expenses for medically necessary medical, surgical, X-ray, dental, and rehabilitative services, including prosthetic devices and medically necessary ambulance, hospital, and nursing services if the individual receives initial services and care pursuant to subparagraph 1. within 14 days after the motor vehicle accident. The medical benefits provide reimbursement

only for:

1. Initial services and care that are lawfully provided, supervised, ordered, or prescribed by a physician licensed under chapter 458 or chapter 459, a dentist licensed under chapter 466, a chiropractic physician licensed under chapter 460, or an advanced practice registered nurse registered under s. 464.0123 or that are provided in a hospital or in a facility that owns, or is wholly owned by, a hospital. Initial services and care may also be provided by a person or entity licensed under part III of chapter 401 which provides emergency transportation and treatment.

2. Upon referral by a provider described in subparagraph 1., follow-up ~~followup~~ services and care consistent with the underlying medical diagnosis rendered pursuant to subparagraph 1. which may be provided, supervised, ordered, or prescribed only by a physician licensed under chapter 458 or chapter 459, a chiropractic physician licensed under chapter 460, a dentist licensed under chapter 466, or an advanced practice registered nurse registered under s. 464.0123, or, to the extent permitted by applicable law and under the supervision of such physician, osteopathic physician, chiropractic physician, or dentist, by a physician assistant licensed under chapter 458 or chapter 459 or an advanced practice registered nurse licensed under chapter 464. Follow-up ~~Followup~~ services and care may also be provided by the following persons or entities:

a. A hospital or ambulatory surgical center licensed under chapter 396 ~~395~~.

b. An entity wholly owned by one or more physicians licensed under chapter 458 or chapter 459, chiropractic

physicians licensed under chapter 460, advanced practice registered nurses registered under s. 464.0123, or dentists licensed under chapter 466 or by such practitioners and the spouse, parent, child, or sibling of such practitioners.

c. An entity that owns or is wholly owned, directly or indirectly, by a hospital or hospitals.

d. A physical therapist licensed under chapter 486, based upon a referral by a provider described in this subparagraph.

e. A health care clinic licensed under part X of chapter 400 which is accredited by an accrediting organization whose standards incorporate comparable regulations required by this state, or

(I) Has a medical director licensed under chapter 458, chapter 459, or chapter 460;

(II) Has been continuously licensed for more than 3 years or is a publicly traded corporation that issues securities traded on an exchange registered with the United States Securities and Exchange Commission as a national securities exchange; and

(III) Provides at least four of the following medical specialties:

(A) General medicine.

(B) Radiography.

(C) Orthopedic medicine.

(D) Physical medicine.

(E) Physical therapy.

(F) Physical rehabilitation.

(G) Prescribing or dispensing outpatient prescription medication.

(H) Laboratory services.

3. Reimbursement for services and care provided in subparagraph 1. or subparagraph 2. up to $10,000 if a physician licensed under chapter 458 or chapter 459, a dentist licensed under chapter 466, a physician assistant licensed under chapter 458 or chapter 459, or an advanced practice registered nurse licensed under chapter 464 has determined that the injured person had an emergency medical condition.

4. Reimbursement for services and care provided in subparagraph 1. or subparagraph 2. is limited to $2,500 if a provider listed in subparagraph 1. or subparagraph 2. determines that the injured person did not have an emergency medical condition.

5. Medical benefits do not include massage therapy as defined in s. 480.033 or acupuncture as defined in s. 457.102, regardless of the person, entity, or licensee providing massage therapy or acupuncture, and a licensed massage therapist or licensed acupuncturist may not be reimbursed for medical benefits under this section.

6. The Financial Services Commission shall adopt by rule the form that must be used by an insurer and a health care provider specified in sub-subparagraph 2.b., sub-subparagraph 2.c., or sub-subparagraph 2.e. to document that the health care provider meets the criteria of this paragraph. Such rule must include a requirement for a sworn statement or affidavit.

Only insurers writing motor vehicle liability insurance in this state may provide the required benefits of this section, and such insurer may not require the purchase of any other motor

vehicle coverage other than the purchase of property damage liability coverage as required by s. 627.7275 as a condition for providing such benefits. Insurers may not require that property damage liability insurance in an amount greater than $10,000 be purchased in conjunction with personal injury protection. Such insurers shall make benefits and required property damage liability insurance coverage available through normal marketing channels. An insurer writing motor vehicle liability insurance in this state who fails to comply with such availability requirement as a general business practice violates part IX of chapter 626, and such violation constitutes an unfair method of competition or an unfair or deceptive act or practice involving the business of insurance. An insurer committing such violation is subject to the penalties provided under that part, as well as those provided elsewhere in the insurance code.

Section 66. Paragraph (a) of subsection (1) of section 627.912, Florida Statutes, is amended to read:

627.912 Professional liability claims and actions; reports by insurers and health care providers; annual report by office.—

(1)(a) Each self-insurer authorized under s. 627.357 and each commercial self-insurance fund authorized under s. 624.462, authorized insurer, surplus lines insurer, risk retention group, and joint underwriting association providing professional liability insurance to a practitioner of medicine licensed under chapter 458, to a practitioner of osteopathic medicine licensed under chapter 459, to a podiatric physician licensed under chapter 461, to a dentist licensed under chapter 466, to a hospital licensed under chapter 395, to a crisis stabilization unit licensed under part IV of chapter 394, to a health

maintenance organization certificated under part I of chapter 641, to clinics included in chapter 390, or to an ambulatory surgical center as defined in s. 396.202 ~~s. 395.002~~, and each insurer providing professional liability insurance to a member of The Florida Bar shall report to the office as set forth in paragraph (c) any written claim or action for damages for personal injuries claimed to have been caused by error, omission, or negligence in the performance of such insured's professional services or based on a claimed performance of professional services without consent.

Section 67. Subsection (2) of section 765.101, Florida Statutes, is amended to read:

765.101 Definitions.—As used in this chapter:

(2) "Attending physician" means the physician who has primary responsibility for the treatment and care of the patient while the patient receives such treatment or care in a hospital as defined in s. 395.002 ~~s. 395.002(12)~~.

Section 68. Paragraph (a) of subsection (1) of section 766.101, Florida Statutes, is amended to read:

766.101 Medical review committee, immunity from liability.—

(1) As used in this section:

(a) The term "medical review committee" or "committee" means:

1.a. A committee of a hospital or ambulatory surgical center licensed under chapter 396 ~~395~~ or a health maintenance organization certificated under part I of chapter 641;

b. A committee of a physician-hospital organization, a provider-sponsored organization, or an integrated delivery system;

c. A committee of a state or local professional society of health care providers;

d. A committee of a medical staff of a licensed hospital or nursing home, provided the medical staff operates pursuant to written bylaws that have been approved by the governing board of the hospital or nursing home;

e. A committee of the Department of Corrections or the Correctional Medical Authority as created under s. 945.602, or employees, agents, or consultants of either the department or the authority or both;

f. A committee of a professional service corporation formed under chapter 621 or a corporation organized under part I of chapter 607 or chapter 617, which is formed and operated for the practice of medicine as defined in s. 458.305(3), and which has at least 25 health care providers who routinely provide health care services directly to patients;

g. A committee of the Department of Children and Families which includes employees, agents, or consultants to the department as deemed necessary to provide peer review, utilization review, and mortality review of treatment services provided pursuant to chapters 394, 397, and 916;

h. A committee of a mental health treatment facility licensed under chapter 394 or a community mental health center as defined in s. 394.907, provided the quality assurance program operates pursuant to the guidelines that have been approved by the governing board of the agency;

i. A committee of a substance abuse treatment and education prevention program licensed under chapter 397 provided the quality assurance program operates pursuant to the guidelines

that have been approved by the governing board of the agency;

j. A peer review or utilization review committee organized under chapter 440;

k. A committee of the Department of Health, a county health department, healthy start coalition, or certified rural health network, when reviewing quality of care, or employees of these entities when reviewing mortality records; or

l. A continuous quality improvement committee of a pharmacy licensed pursuant to chapter 465,

which committee is formed to evaluate and improve the quality of health care rendered by providers of health service, to determine that health services rendered were professionally indicated or were performed in compliance with the applicable standard of care, or that the cost of health care rendered was considered reasonable by the providers of professional health services in the area; or

2. A committee of an insurer, self-insurer, or joint underwriting association of medical malpractice insurance, or other persons conducting review under s. 766.106.

Section 69. Subsection (3) of section 766.110, Florida Statutes, is amended to read:

766.110 Liability of health care facilities.—

(3) In order to ensure comprehensive risk management for diagnosis of disease, a health care facility, including a hospital or ambulatory surgical center, as defined in chapter 396 ~~395~~, may use scientific diagnostic disease methodologies that use information regarding specific diseases in health care facilities and that are adopted by the facility's medical review

committee.

Section 70. Paragraph (d) of subsection (3) of section 766.1115, Florida Statutes, is amended to read:

766.1115 Health care providers; creation of agency relationship with governmental contractors.—

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

(d) "Health care provider" or "provider" means:

1. A birth center licensed under chapter 383.

2. An ambulatory surgical center licensed under chapter 396 ~~395~~.

3. A hospital licensed under chapter 395.

4. A physician or physician assistant licensed under chapter 458.

5. An osteopathic physician or osteopathic physician assistant licensed under chapter 459.

6. A chiropractic physician licensed under chapter 460.

7. A podiatric physician licensed under chapter 461.

8. A registered nurse, nurse midwife, licensed practical nurse, or advanced practice registered nurse licensed or registered under part I of chapter 464 or any facility which employs nurses licensed or registered under part I of chapter 464 to supply all or part of the care delivered under this section.

9. A midwife licensed under chapter 467.

10. A health maintenance organization certificated under part I of chapter 641.

11. A health care professional association and its employees or a corporate medical group and its employees.

12. Any other medical facility the primary purpose of which

is to deliver human medical diagnostic services or which delivers nonsurgical human medical treatment, and which includes an office maintained by a provider.

13. A dentist or dental hygienist licensed under chapter 466.

14. A free clinic that delivers only medical diagnostic services or nonsurgical medical treatment free of charge to all low-income recipients.

15. Any other health care professional, practitioner, provider, or facility under contract with a governmental contractor, including a student enrolled in an accredited program that prepares the student for licensure as any one of the professionals listed in subparagraphs 4.-9.

The term includes any nonprofit corporation qualified as exempt from federal income taxation under s. 501(a) of the Internal Revenue Code, and described in s. 501(c) of the Internal Revenue Code, which delivers health care services provided by licensed professionals listed in this paragraph, any federally funded community health center, and any volunteer corporation or volunteer health care provider that delivers health care services.

Section 71. Subsection (4) and paragraph (b) of subsection (6) of section 766.118, Florida Statutes, are amended to read:

766.118 Determination of noneconomic damages.—

(4) LIMITATION ON NONECONOMIC DAMAGES FOR NEGLIGENCE OF PRACTITIONERS PROVIDING EMERGENCY SERVICES AND CARE.—Notwithstanding subsections (2) and (3), with respect to a cause of action for personal injury or wrongful death arising from

medical negligence of practitioners providing emergency services and care, as defined in s. 395.002 ~~s. 395.002(9)~~, or providing services as provided in s. 401.265, or providing services pursuant to obligations imposed by 42 U.S.C. s. 1395dd to persons with whom the practitioner does not have a then-existing health care patient-practitioner relationship for that medical condition:

(a) Regardless of the number of such practitioner defendants, noneconomic damages may ~~shall~~ not exceed $150,000 per claimant.

(b) Notwithstanding paragraph (a), the total noneconomic damages recoverable by all claimants from all such practitioners may ~~shall~~ not exceed $300,000.

The limitation provided by this subsection applies only to noneconomic damages awarded as a result of any act or omission of providing medical care or treatment, including diagnosis that occurs prior to the time the patient is stabilized and is capable of receiving medical treatment as a nonemergency patient, unless surgery is required as a result of the emergency within a reasonable time after the patient is stabilized, in which case the limitation provided by this subsection applies to any act or omission of providing medical care or treatment which occurs prior to the stabilization of the patient following the surgery.

(6) LIMITATION ON NONECONOMIC DAMAGES FOR NEGLIGENCE OF A PRACTITIONER PROVIDING SERVICES AND CARE TO A MEDICAID RECIPIENT.—Notwithstanding subsections (2), (3), and (5), with respect to a cause of action for personal injury or wrongful

death arising from medical negligence of a practitioner committed in the course of providing medical services and medical care to a Medicaid recipient, regardless of the number of such practitioner defendants providing the services and care, noneconomic damages may not exceed $300,000 per claimant, unless the claimant pleads and proves, by clear and convincing evidence, that the practitioner acted in a wrongful manner. A practitioner providing medical services and medical care to a Medicaid recipient is not liable for more than $200,000 in noneconomic damages, regardless of the number of claimants, unless the claimant pleads and proves, by clear and convincing evidence, that the practitioner acted in a wrongful manner. The fact that a claimant proves that a practitioner acted in a wrongful manner does not preclude the application of the limitation on noneconomic damages prescribed elsewhere in this section. For purposes of this subsection:

(b) The term "practitioner," in addition to the meaning prescribed in subsection (1), includes a ~~any~~ hospital ~~or ambulatory surgical center~~ as defined and licensed under chapter 395 or an ambulatory surgical center as defined and licensed under chapter 396.

Section 72. Subsection (4) of section 766.202, Florida Statutes, is amended to read:

766.202 Definitions; ss. 766.201-766.212.—As used in ss. 766.201-766.212, the term:

(4) "Health care provider" means a ~~any~~ hospital ~~or ambulatory surgical center~~ as defined and licensed under chapter 395; an ambulatory surgical center as defined and licensed under chapter 396; a birth center licensed under chapter 383; any

person licensed under chapter 458, chapter 459, chapter 460, chapter 461, chapter 462, chapter 463, part I of chapter 464, chapter 466, chapter 467, part XIV of chapter 468, or chapter 486; a health maintenance organization certificated under part I of chapter 641; a blood bank; a plasma center; an industrial clinic; a renal dialysis facility; or a professional association partnership, corporation, joint venture, or other association for professional activity by health care providers.

Section 73. Section 766.316, Florida Statutes, is amended to read:

766.316 Notice to obstetrical patients of participation in the plan.—Each hospital with a participating physician on its staff and each participating physician, other than residents, assistant residents, and interns deemed to be participating physicians under s. 766.314(4)(c), under the Florida Birth-Related Neurological Injury Compensation Plan shall provide notice to the obstetrical patients as to the limited no-fault alternative for birth-related neurological injuries. Such notice shall be provided on forms furnished by the association and shall include a clear and concise explanation of a patient's rights and limitations under the plan. The hospital or the participating physician may elect to have the patient sign a form acknowledging receipt of the notice form. Signature of the patient acknowledging receipt of the notice form raises a rebuttable presumption that the notice requirements of this section have been met. Notice need not be given to a patient when the patient has an emergency medical condition as defined in s. 395.002 ~~s. 395.002(8)(b)~~ or when notice is not practicable.

Section 74. Paragraph (b) of subsection (2) of section 812.014, Florida Statutes, is amended to read:

812.014 Theft.—

(2)

(b)1. If the property stolen is valued at $20,000 or more, but less than $100,000;

2. If the property stolen is cargo valued at less than $50,000 that has entered the stream of interstate or intrastate commerce from the shipper's loading platform to the consignee's receiving dock;

3. If the property stolen is emergency medical equipment, valued at $300 or more, that is taken from a facility licensed under chapter 395 or from an aircraft or vehicle permitted under chapter 401; or

4. If the property stolen is law enforcement equipment, valued at $300 or more, that is taken from an authorized emergency vehicle, as defined in s. 316.003,

the offender commits grand theft in the second degree, punishable as a felony of the second degree, as provided in s. 775.082, s. 775.083, or s. 775.084. Emergency medical equipment means mechanical or electronic apparatus used to provide emergency services and care as defined in s. 395.002 ~~s. 395.002(9)~~ or to treat medical emergencies. Law enforcement equipment means any property, device, or apparatus used by any law enforcement officer as defined in s. 943.10 in the officer's official business. However, if the property is stolen during a riot or an aggravated riot prohibited under s. 870.01 and the perpetration of the theft is facilitated by conditions arising

from the riot; or within a county that is subject to a state of emergency declared by the Governor under chapter 252, the theft is committed after the declaration of emergency is made, and the perpetration of the theft is facilitated by conditions arising from the emergency, the theft is a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. As used in this paragraph, the term "conditions arising from the riot" means civil unrest, power outages, curfews, or a reduction in the presence of or response time for first responders or homeland security personnel and the term "conditions arising from the emergency" means civil unrest, power outages, curfews, voluntary or mandatory evacuations, or a reduction in the presence of or response time for first responders or homeland security personnel. A person arrested for committing a theft during a riot or an aggravated riot or within a county that is subject to a state of emergency may not be released until the person appears before a committing magistrate at a first appearance hearing. For purposes of sentencing under chapter 921, a felony offense that is reclassified under this paragraph is ranked one level above the ranking under s. 921.0022 or s. 921.0023 of the offense committed.

Section 75. Paragraph (b) of subsection (1) of section 945.6041, Florida Statutes, is amended to read:

945.6041 Inmate medical services.—

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

(b) "Health care provider" means:

1. A hospital licensed under chapter 395.

2. A physician or physician assistant licensed under chapter 458.

3. An osteopathic physician or physician assistant licensed under chapter 459.

4. A podiatric physician licensed under chapter 461.

5. A health maintenance organization certificated under part I of chapter 641.

6. An ambulatory surgical center licensed under chapter 396 ~~395~~.

7. A professional association, partnership, corporation, joint venture, or other association established by the individuals set forth in subparagraphs 2., 3., and 4. for professional activity.

8. An other medical facility.

a. As used in this subparagraph, the term "other medical facility" means:

(I) A facility the primary purpose of which is to provide human medical diagnostic services, or a facility providing nonsurgical human medical treatment which discharges patients on the same working day that the patients are admitted; and

(II) A facility that is not part of a hospital.

b. The term does not include a facility existing for the primary purpose of performing terminations of pregnancy, or an office maintained by a physician or dentist for the practice of medicine.

Section 76. Paragraph (a) of subsection (1) of section 985.6441, Florida Statutes, is amended to read:

985.6441 Health care services.—

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

(a) "Health care provider" means:

1. A hospital licensed under chapter 395.

2. A physician or physician assistant licensed under chapter 458.

3. An osteopathic physician or physician assistant licensed under chapter 459.

4. A podiatric physician licensed under chapter 461.

5. A health maintenance organization certificated under part I of chapter 641.

6. An ambulatory surgical center licensed under chapter 396 ~~395~~.

7. A professional association, partnership, corporation, joint venture, or other association established by the individuals set forth in subparagraphs 2.-4. for professional activity.

8. An other medical facility.

a. As used in this subparagraph, the term "other medical facility" means:

(I) A facility the primary purpose of which is to provide human medical diagnostic services, or a facility providing nonsurgical human medical treatment which discharges patients on the same working day that the patients are admitted; and

(II) A facility that is not part of a hospital.

b. The term does not include a facility existing for the primary purpose of performing terminations of pregnancy, or an office maintained by a physician or dentist for the practice of medicine.

Section 77. (1) It is the intent of the Legislature to bifurcate all fees applicable to ambulatory surgical centers authorized and imposed under chapter 395, Florida Statutes (2024), and transfer them to chapter 396, Florida Statutes, as

created by this act. The Agency for Health Care Administration may maintain its current fees for ambulatory surgical centers and may adopt rules to codify such fees in rule to conform to changes made by this act.

(2) It is further the intent of the Legislature to bifurcate any exemptions from public records and public meetings requirements applicable to ambulatory surgical centers under chapter 395, Florida Statutes (2024), and preserve such exemptions under chapter 396, Florida Statutes, as created by this act.

Section 78. This act shall take effect July 1, 2025.