

THE FLORIDA SENATE
2017 SUMMARY OF LEGISLATION PASSED

**Committee on Children, Families,
And Elder Affairs**

CS/SB 60 — Children Obtaining Driver Licenses

by Children, Families, and Elder Affairs Committee; and Senators Bean, Rodriguez, and Stargel

CS/SB 60 (Chapter 2017-8, L.O.F.) addresses children in foster care obtaining driver licenses. Such children in the foster care system often face barriers to participating in everyday life experiences common to other young people their age. These life experiences are a part of how all children are prepared for the responsibilities they will assume as adults. Florida law supports the participation of children in out-of-home care in age-appropriate activities.

The bill removes the pilot status of the program that provides funding to pay the cost for driver education, licensure, and motor vehicle insurance for children in out-of-home care and expands eligibility for the program to children who are in relative and non-relative placements. In addition, it allows children to continue receiving benefits for up to six months after having achieved permanency or turning 18 years of age.

The bill requires the child's transition plan and the court to address the issue of a child in care being able to obtain a driver license.

The bill also provides that a guardian ad litem, when authorized by a minor's caregiver, may sign for the minor's learner's driver license and not assume any obligation or liability for damages caused by the minor.

The current program is funded with a recurring appropriation of \$800,000 and should require no additional resources for the proposed expansion.

These provisions were approved by the Governor on May 1, 2017 and take effect upon becoming a law.

Vote: Senate 37-0; House 116-0

THE FLORIDA SENATE
2017 SUMMARY OF LEGISLATION PASSED

**Committee on Children, Families,
And Elder Affairs**

CS/HB 329 — Child Protection

by Health and Human Services Committee and Reps. Harrell and others (SB 762 by Senator Baxley)

CS/HB 329 relates to child visitation where a parent resides in a recovery residence, or sober home, because of a drug or alcohol addiction. The bill provides that in such cases, a court-ordered time-sharing plan may not require a minor child to visit a parent between the hours of 9 p.m. and 7 a.m. if that parent lives in a recovery residence. The bill provides as a condition of certification by the Department of Children and Families that a recovery residence may not allow a child to visit a resident parent during those hours. The bill also prohibits court-ordered visitation of a minor child to a recovery residence where a sexual predator or sexual offender resides.

The bill is intended to clarify that a minor child cannot be required by a court, through a time-sharing plan, to visit overnight with a parent that resides in a substance abuse recovery residence.

If approved by the Governor, these provisions take effect July 1, 2017.

Vote: Senate 38-0; House 117-0

**Committee on Children, Families,
And Elder Affairs**

CS/CS/HB 397 — Public Records/Victim of Alleged Sexual Harassment/Identifying Information

by Government Accountability Committee; Oversight, Transparency and Administration Subcommittee; and Rep. Raschein and others (CS/CS/SB 492 by Governmental Oversight and Accountability Committee; Children, Families, and Elder Affairs Committee; and Senator Young)

CS/CS HB 397 creates a public records exemption for identifying information contained in state agency investigations of employee sexual harassment. It is unlawful to harass a person (an applicant or employee) because of that person's sex. Harassment can include "sexual harassment" or unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature. The bill provides legislative findings that protecting personal identifying information of alleged victims is a public necessity because disclosure of such information could place them at risk of further harassment and retaliation and that the disclosure of identifying information could discourage alleged victims from reporting instances of alleged harassment.

The exemption is subject to the Open Government Sunset Review Act and unless reviewed and saved from repeal through reenactment by the Legislature, shall be repealed on October 2, 2022.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 36-0; House 114-0

Committee on Children, Families, And Elder Affairs

CS/HB 399 — Guardianship

by Civil Justice and Claims Subcommittee and Reps. Diamond and Spano (CS/CS/SB 172 by Judiciary Committee; Children, Families, and Elder Affairs Committee; and Senators Passidomo, Mayfield, and Powell)

CS/HB 399 (Chapter 2017-16, L.O.F.) revises several aspects of Florida's guardianship statutes relating to the determination of a person's incapacity. The bill allows certain parties to challenge a report filed by an examining committee member; allows a guardian's annual report on the incapacitated person over whom he or she has responsibility to be filed within a certain timeframe; allows a court to grant extraordinary authority for a guardian to initiate a ward's divorce without the spouse's consent; and removes the \$6,000 cap on the amount a guardian may spend on a ward's funeral and related expenses.

This bill is, in part, based on a court ruling from the Florida 4th District Court of Appeals, addressing the introduction of examining committee reports into evidence without a member of the examining committee available to testify to the contents of the report. The bill allows certain parties time to review the examining committee reports and, if no challenge to the reports is filed with the court, then the report may be introduced into evidence. If a challenge to a report is timely filed with the court, then an examining committee member must attend the hearing to testify about the contents of the report.

These provisions became law upon approval by the Governor on May 9, 2017.

Vote: Senate 39-0; House 93-22

Committee on Children, Families, And Elder Affairs

CS/CS/SB 590 — Child Support and Parenting Time Plans

by Appropriations Committee; Judiciary Committee; and Senators Brandes, Stargel, Gibson and Campbell

CS/CS/SB 590 authorizes the Department of Revenue (DOR) to establish parenting time plans to which both parents have agreed in Title IV-D child support actions. Parenting time plans are documents that set out the time a child or children will spend with a custodial and non-custodial parent. Title IV-D child support cases are administrative matters delegated to the DOR by the Legislature. The majority of child support cases handled by the DOR are for parents that have a child or children together but have never married.

Under the bill, the DOR is required to provide parents parenting time plans with a proposed administrative support order. The bill also creates a standard parenting time plan that may be used by parents. In the event the parents cannot agree on a plan, they will be referred to the circuit court for the establishment of a plan. In these instances, parents will not pay a fee to file a petition to determine a parenting time plan.

Both parents must sign a parenting time plan before the plan may be incorporated into an administrative child support order. The Title IV-D Standard Parenting Time Plan provides the non-custodial parent that is paying child support a minimum amount of parenting time with his or her child.

The bill contains a nonrecurring appropriation of \$690,650 and a recurring appropriation of \$350,476 in general revenue to the DOR to implement the bill.

If approved by the Governor, the law will take effect January 1, 2018.

Vote: Senate 37-0; House 82-33

**Committee on Children, Families,
And Elder Affairs**

CS/CS/SB 886 — Public Records/Substance Abuse Impaired Persons

by Governmental Oversight and Accountability Committee; Children, Families, and Elder Affairs Committee; and Senator Powell

CS/CS/SB 886 creates a public records exemption for petitions for involuntary assessment and stabilization of a substance abuse impaired person filed pursuant to s. 397.6815, F.S. The bill provides for a retroactive application of the public records exemption.

The bill aligns the protection of court documents under the Marchman Act (involuntary assessment for substance abuse) with the Baker Act (involuntary assessment for mental health disorders). The bill provides legislative findings that making such petitions, orders, records, and identifying information confidential and exempt from disclosure will protect such persons from the release of sensitive, personal information which could damage their and their families' reputations, and that protecting such information is a public necessity.

If approved by the Governor, these provisions take effect July 1, 2017.

Vote: Senate 39-0; House 117-0

**Committee on Children, Families,
And Elder Affairs**

CS/HB 899 — Comprehensive Transitional Education Programs

by Children, Families and Seniors Subcommittee and Rep. Stevenson (CS/SB 714 by Appropriations Committee and Senator Garcia)

The bill authorizes the Agency for Persons with Disabilities to petition a court for the appointment of a receiver for a comprehensive transitional education program (CTEP) under certain circumstances that already apply to receivership for residential habilitation centers and group home facilities owned and operated by a corporation or partnership.

Pursuant to s. 393.18, F.S., a CTEP serves individuals who have developmental disabilities, severe maladaptive behaviors, severe maladaptive behaviors and co-occurring complex medical conditions, or a dual diagnosis of developmental disabilities and mental illness. In Florida, there are only two CTEPs licensed by Agency for Persons with Disabilities.

If approved by the Governor, this bill takes effect upon becoming law.

Vote: Senate 36-0; House 118-0

**Committee on Children, Families,
And Elder Affairs**

CS/CS/HB 981 — Pub. Rec./Department of Elderly Affairs

by Health and Human Services Committee; Children, Families and Seniors Subcommittee; and Rep. Gonzalez (SB 1408 by Senator Broxson)

CS/CS/HB 981 creates a public records exemption for certain information held by the Department of Elder Affairs in connection with a complaint filed against or an investigation of a professional guardian. Legislation passed in 2016 (Chapter 2016-40, Laws of Florida) directed the Office of Public and Professional Guardians within the Department of Elder Affairs to establish standards of practice for public and professional guardians, receive and investigate complaints, establish procedures for disciplinary oversight, conduct hearings, and take administrative action pursuant to ch. 120, F.S.

The investigative information that is confidential and exempt under the bill includes the names and identifying information of a ward and complainant; the ward's personal health and financial records; and all photographs and video recordings. This information is confidential and exempt from public disclosure indefinitely. The bill provides legislative findings that making such information exempt from public records during the course of an investigation is a public necessity. All information held by Department of Elder Affairs not expressly exempted indefinitely in this legislation is confidential and exempt until the investigation is complete or ceases to be active unless otherwise ordered by the court.

The exemption is subject to the Open Government Sunset Review Act and will be repealed on October 2, 2022 unless reviewed and saved by the Legislature.

If approved by the Governor, these provisions take effect July 1, 2017.

Vote: Senate 37-0; House 115-0

THE FLORIDA SENATE
2017 SUMMARY OF LEGISLATION PASSED
**Committee on Children, Families,
And Elder Affairs**

HB 1051 — Forensic Hospital Diversion Pilot Program

by Rep. Ponder and others (SB 1094 by Senator Gainer)

HB 1051 authorizes the Department of Children and Families to implement a Forensic Hospital Diversion Pilot Program in Okaloosa County in conjunction with the First Judicial Circuit. The purpose of the program is to provide competency-restoration and community-reintegration services in either a locked residential treatment facility when appropriate or a community-based facility based on consideration of public safety, the needs of the individual, and available resources.

If approved by the Governor, these provisions take effect July 1, 2017.

Vote: Senate 37-0; House 117-0

Committee on Children, Families, And Elder Affairs

CS/CS/HB 1121 — Child Welfare

by Health and Human Services Committee; Children, Families and Seniors Subcommittee; and Reps. Stevenson; Harrell, and others (CS/CS/CS/SB 1044 Appropriations Committee; Judiciary Committee; Children, Families, and Elder Affairs Committee; and Senators Garcia and Campbell)

Chapters 39 and 409, F.S., contain provisions relating to Florida's child welfare system to protect and provide services to children who are either at risk of maltreatment or who have been abused, abandoned or neglected. The Department of Children and Families (DCF) Office of Child Welfare works in partnership with Community Based Care lead agencies (CBCs) and the courts to ensure the safety, timely permanency and well-being of children.

DCF's child welfare practice model standardizes the approach to risk assessment and decision making used to determine a child's safety. The model emphasizes parent engagement and empowerment as well as the training and support of child welfare professionals to assess child safety and emphasizes a family-centered practice with the goal of keeping children in their homes whenever possible.

CS/CS/HB 1121 makes a number of revisions to current law to improve the care of children in the child welfare system. Most of these changes are recommended by DCF and seek to better ensure child safety. Specifically, the bill:

- Requires the state to identify a child's father earlier in the legal process to allow for more placement options and family involvement when a child is removed from his or her family by DCF.
- Allows DCF to return an abused or neglected child to his or her home with an in-home safety plan when the conditions that caused the child to be removed are resolved rather than when the parents have substantially completed their case plan.
- Requires DCF to consider the safety of any new children added to the home of a family after a child abuse investigation has begun.
- Requires a parent to be assessed for substance abuse and complete treatment when there is evidence of harm to a child as a result of substance abuse.
- Allows DCF to terminate parental rights when a child has been placed in out-of-home care in any jurisdiction three or more times.
- Requires DCF to develop, in collaboration with the Florida Institute for Child Welfare, service providers, and other community stakeholders, a statewide quality accountability system for providers of residential group care that promotes high quality in services and accommodations. CBCs must implement the quality accountability system by July 1, 2022. DCF must submit a report to the Governor and Legislature on October 1, 2017, and by October 1 of each year thereafter.
- Requires DCF to convene a workgroup on increasing the number of high-quality foster homes and report to the Governor and Legislature by November 15, 2017.
- Allows the dependency court to order a case plan with a permanency goal of "maintain and strengthen" in the child's home by adding "maintain and strengthen" to the list of

permanency options that a court may order and revises the definition of “permanency goal” by removing language duplicated in substantive law.

- Extends the jurisdiction of the dependency court over young adults with a disability until the age of 22, requires that a child’s transition plan must be approved by the court before a child’s 18th birthday regardless of whether the child is leaving care at 18 and requires that the transition plan must be attached to the case plan and updated before each judicial review.
- Requires the appropriate CBC or subcontracted agency to establish a multi-disciplinary team to determine appropriate placement of a child after gathering customized data and information on the child.
- Requires DCF to collect data on out-of-home placements, post the data on its website, and update the website twice a year.
- Establishes a shared family care residential services pilot program to facilitate the temporary placement of substance-exposed newborns and their families in the home of trained volunteer families for the purpose of mentoring and receiving treatment and services.
- Makes additional changes such as prohibiting payments under the Relative Caregiver Program when the parent is living with the relative along with the dependent child, allowing the release of medical records by hospitals and physicians for child abuse cases, and using child abuse records to screen employees of group homes for foster children.

The bill also makes a number of changes to laws related to children who are not involved with the child welfare system. Specifically, the bill:

- Allows certain children services councils, as independent special districts having taxing authority, to remain in existence without additional voter approval in 2020 if they were reapproved for a second time since 2005.
- Prohibits the use of state-appropriated funds to pay the salary of a CBC administrative employee in an amount that exceeds 150% of the salary paid to the secretary of DCF.
- Addresses issues related to the needs of unaccompanied homeless youth by clarifying eligibility for college and university tuition exemptions and current law relating to being able to obtain medical care without parental permission.
- Requires the initiation of an involuntary mental health examination under the Baker Act of a minor within 12 hours of arriving at a facility. The bill creates a task force within DCF to address the issue of involuntary examinations of children age 17 and younger.
- Establishes a technical advisory panel within the Agency for Health Care Administration for the purpose of developing procedures and standards for measuring outcomes of pediatric cardiac catheterization programs and pediatric open-heart surgery programs. The bill specifies the duties and composition of the panel.

If approved by the Governor, the bill takes effect July 1, 2017, except for the provisions relating to the assessment of a child removed from his or her home and placed in out-of-home care, which takes effect January 1, 2018.

Vote: Senate 38-0; House 117-0

Committee on Children, Families, And Elder Affairs

CS/HB 1269 — Child Protection

by Health Quality Subcommittee and Rep. Harrrell (CS/SBs 1318 and 1454 by Children, Families, and Elder Affairs Committee; and Senators Garcia and Broxson)

CS/HB 1269 makes a number of changes to provisions relating to child protection teams (CPT). A CPT is a medically directed, multidisciplinary team in the Department of Health (DOH) that supplements the child protective investigation efforts of the Department of Children and Families (DCF) and local sheriffs' offices in cases of child abuse and neglect. CPTs provide expertise in evaluating alleged child abuse and neglect, assess risk and protective factors, and provide recommendations for interventions.

The bill:

- Allows a board-certified physician in family medicine to be hired as a CPT medical director. Physicians employed as CPT medical directors must, within two years after their date of employment, obtain either a subspecialty certification in child abuse from the American Board of Pediatrics or meet the minimum requirements established by a third-party credentialing entity recognizing a demonstrated specialized competence in child abuse pediatrics pursuant to s. 39.303(2)(d), F.S.
- Requires the State Surgeon General and Deputy Secretary for Children's Medical Services to consult with the Statewide Medical Director for Child Protection on decisions regarding screening, employment, and termination of child protection team medical directors at headquarters and within all circuits statewide.
- Revises the group of persons authorized to complete the required review of all suspected abuse and neglect reports submitted to the DCF Florida Abuse Hotline, to determine if a face-to-face medical evaluation by a child protection team is necessary.
- Changes CPT districts to circuits to align the CPT and the DCF service areas.
- Codifies the requirements for Sexual Abuse Treatment Programs that provide children alleged to have been sexually abused, their siblings, and their non-offending caretakers with specialized therapeutic treatment to assist in recovery from sexual abuse.
- Requires Children's Medical Services to convene a task force to develop a standardized protocol for forensic interviewing for children suspected of having been abused and to provide staff to support the task force, as needed. The task force must include various representatives from the disciplines of law enforcement, child welfare, and mental health treatment. The DOH must provide the protocol to the Legislature by January 1, 2018.
- Expands the cases in which an expert witness certificate may be used, to include cases involving abandonment, dependency, and sexual abuse.

If approved by the Governor, these provisions take effect July 1, 2017.

Vote: Senate 37-0; House 118-0

**Committee on Children, Families,
And Elder Affairs**

**HB 7073 — Ratification of a Department of Elder Affairs Rule and a
Department of Health Rule**

by Children, Families and Seniors Subcommittee; and Representative Grant, M. (CS/SB 7020 by Rules Committee and Children, Families, and Elder Affairs Committee)

HB 7073 ratifies Rule 58M-2.009, Florida Administrative Code (F.A.C.), adopted by the Department of Elder Affairs. The adopted rule establishes standards of practice to provide a level of accountability for professional guardians while avoiding the imposition of unnecessary regulations on the guardians. The ratification of this rule allows for the oversight of professional guardians by the Office of Public and Professional Guardians in the Department of Elder Affairs.

The bill also ratifies Rule 64B8-9.009, F.A.C., adopted by the Department of Health and the Board of Medicine for the Standard of Care for Office Surgery. This adopted rule requires two additional drugs be maintained in the office when performing Level I office surgery. These drugs will be available to counteract any overdoses from sedation medication. Level I office surgery includes minor procedures with minimal sedation or topical or local anesthesia where the chances of complication requiring hospitalization are remote.

The Statement of Estimated Regulatory Costs developed by each department determined that the proposed rules will likely increase regulatory costs on the regulated entities by more than \$1 million in the aggregate over the next five years. Pursuant to s. 120.541, F.S., such rules must be ratified by the Legislature before they may go into effect.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 35-0; House 119-0