

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

**CS/CS/HB 139 — Child Care Facilities**

by Health and Human Services Committee; Health and Human Services Access Subcommittee; and Rep. Ahern (CS/CS/SB 364 by Commerce and Tourism Committee; Children, Families, and Elder Affairs Committee; and Senator Latvala)

This bill creates a definition for “household children” in ch. 402, F.S., providing that the supervision of household children belonging to a family day care or large family child care home operator is to be left to the discretion of the operator, unless the children receive subsidized child care through the School Readiness Program to be in the home. The bill also amends the definitions of “family day care home” and “large family child care home” to require that household children under the age of 13 be included in the capacity calculation of those homes when the child is on the premises of the home or on a field trip with children enrolled in child care.

The bill expands the requirements for advertising by prohibiting a person from advertising a child care facility, family day care home, or large family child care home without including the license or registration number of the facility or home.

Lastly, the bill allows a Gold Seal Quality Care provider to correct any Class III violations for which it is cited within one year from the date of the violation before losing its Gold Seal designation or becoming ineligible for such designation.

If approved by the Governor, these provisions take effect July 1, 2011.

*Vote: Senate 37-0; House 116-0*

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

**CS/HB 279 — Training/Certification/Child Welfare Personnel**

by Health and Human Services Access Subcommittee and Rep. Davis (CS/SB 380 by Children, Families, and Elder Affairs Committee and Senator Wise)

The bill amends legislative intent relating to the training and certification of child welfare personnel by eliminating the responsibility of the Department of Children and Families (DCF or department) to establish, maintain, and oversee child welfare training academies and by requiring that persons providing child welfare services earn and maintain a certification from a third party credentialing entity that is approved by the department. The bill creates definitions for the terms "child welfare certification," "core competency," "preservice curriculum," and "third-party credentialing entity."

The bill requires the department to approve one or more third-party credentialing entities for the purpose of developing and administering child welfare certification programs for persons who provide child welfare services and provides the criteria for a credentialing entity to secure DCF approval. The bill requires the department to approve core competencies and related pre-service curricula. The bill allows community-based care agencies, sheriffs' offices, and the department to contract for training and requires department approved credentialing entities to grant reciprocity and award a child welfare certification to individuals who hold certificates issued by the department for a specified period of time. No cost will be incurred by the department or the certificateholder.

The use of the Child Welfare Training Trust Fund is amended by the bill, and the child welfare training academies are eliminated. The bill also eliminates the ability of the department to develop certification programs.

If approved by the Governor, these provisions take effect October 1, 2011.

*Vote: Senate 37-0; House 117-0*

## Committee on Children, Families, And Elder Affairs

### **SB 404 — Transition to Adulthood Services**

by Senator Wise

The bill makes changes to ch. 985, F.S., relating to juvenile justice, to provide transition-to-adulthood services to older youth who are in the custody of, or under the supervision of, the Department of Juvenile Justice (DJJ).

The bill requires that transition-to-adulthood services for a youth be part of an overall plan leading to the total independence of the child from DJJ's supervision. Specifically, the plan must include:

- A description of the child's skills and a plan for learning additional identified skills;
- The behavior that the child has exhibited which indicates an ability to be responsible and a plan for developing additional responsibilities;
- The provision for future educational, vocational, and training skills;
- Present financial and budgeting capabilities and a plan for improving resources and abilities;
- A description of the proposed residence;
- Documentation that the child understands the specific consequences of his or her conduct in such a program;
- Documentation of proposed services to be provided by DJJ and other agencies, including the type of services and the nature and frequency of contact; and
- A plan for maintaining or developing relationships with family, other adults, friends, and the community.

The bill also provides that youth who are adjudicated delinquent and are in the legal custody of the Department of Children and Family Services (DCF) may, if eligible, receive DCF's independent living transition services pursuant to s. 409.1451, F.S. Adjudication of delinquency may not be considered, by itself, as disqualifying criteria for eligibility in DCF's Independent Living Program.

The bill also permits a court to retain jurisdiction for a year beyond the child's 19th birthday if he or she is participating in the transition-to-adulthood program. The bill provides that the transition services created in s. 985.461, F.S., require voluntary participation by affected youth and are not intended to create an extension of involuntary court-sanctioned residential commitment.

Additionally, the bill creates the College-Preparatory Boarding Academy Pilot Program (Academy) for at-risk students. The bill defines the key elements of the program and establishes "at-risk" student eligibility criteria consistent with eligibility standards for a range of non-educational federal and state programs that support needy families, children, and youth. Specifically, the bill provides that an "eligible student" is a student who is a resident of the state and entitled to attend school, is at risk of academic failure, is currently enrolled in grade 5 or 6, is

from a family whose income is below 200 percent of the federal poverty guidelines, and who meet at least two additional risk factors, which are specified in the bill.

The bill outlines a process for the State Board of Education (SBE) to select an experienced, qualified operator (through a request for proposals process) and prescribes the qualifications and obligations of the operator. The bill also stipulates the contract requirements between the SBE and the selected operator.

The bill authorizes the program to receive funding from non-education sources and requires the SBE to coordinate, streamline, and simplify requirements to eliminate duplicate, redundant, or conflicting requirements to which the academy is subjected. The bill authorizes the operator of the Academy to bill Medicaid for services rendered to eligible students.

The bill directs the Academy to enroll up to 80 students beginning in August 2012, and to grow to a student capacity of 400 students. It also requires the SBE to issue an annual report for each college-preparatory boarding academy. Finally, the bill authorizes the SBE to adopt rules to administer the pilot program.

If approved by the Governor, these provisions take effect July 1, 2011.

*Vote: Senate 38-1; House 118-1*

THE FLORIDA SENATE  
2011 SUMMARY OF LEGISLATION PASSED

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

**CS/SB 504 — Child Visitation**

by Children, Families, and Elder Affairs Committee and Senator Bogdanoff

This bill amends Florida's Keeping Children Safe Act (Act) to require probable cause of sexual abuse by a parent or caregiver in order to create a presumption of detriment to a child. The bill further provides that persons meeting specified criteria may not visit or have contact with a child without a hearing and order by the court. If visitation or contact is denied and the person wishes to begin or resume contact with the child victim, there must be an evidentiary hearing to determine whether contact is appropriate. The bill clarifies that *prior* to the hearing, the court shall appoint a guardian ad litem or attorney ad litem for the child.

The bill also provides that at the hearing, the court may receive evidence, to the extent of its probative value, such as recommendations from the child protective team, the child's therapist, or the child's guardian ad litem or attorney ad litem, even if the evidence may not be admissible under the rules of evidence.

The bill provides that once a rebuttable presumption of detriment has arisen or if visitation has already been ordered and a party or participant informs the court that a person is attempting to influence the testimony of the child, the court must hold a hearing within seven business days to determine whether it is in the best interests of the child to prohibit or restrict visitation with the person who is alleged to have influenced the testimony of the child.

This bill also amends the legislative intent of the Act to provide that it is the intent to protect children who have been sexually abused or exploited by a parent or caregiver by placing additional requirements on judicial determinations related to contact between a parent or caregiver who meets certain criteria and a child victim in any proceeding pursuant to ch. 39, F.S.

If approved by the Governor, these provisions take effect July 1, 2011.

*Vote: Senate 38-0; House 117-0*

THE FLORIDA SENATE  
2011 SUMMARY OF LEGISLATION PASSED

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

**CS/HB 579 — Public Records for Regional Autism Centers**

by Governmental Operations Subcommittee and Rep. Coley and others (CS/SB 1192 by Governmental Oversight and Accountability Committee and Senators Rich and Flores)

This bill creates a public-records exemption for all records that relate to a client of a regional autism center who receives the services of a center or participates in center activities, and for all the records that relate to the client's family. The bill specifies circumstances under which the records may be released. Additionally, the bill creates a public-records exemption for the personal identifying information of a donor or prospective donor to a regional autism center who desires to remain anonymous.

The bill provides a statement of public necessity for the public-records exemptions as required by the Florida Constitution and the bill provides that the exemptions are subject to the Open Government Sunset Review Act and will be repealed on October 2, 2016, unless reviewed and reenacted by the Legislature.

If approved by the Governor, these provisions take effect July 1, 2011.

*Vote: Senate 37-0; House 117-0*

## Committee on Children, Families, And Elder Affairs

### **CS/HB 843 —Teaching Agency for Home and Community-based Care**

by Health and Human Services Access Subcommittee and Rep. Diaz (CS/SB 1158 by Children, Families, and Elder Affairs Committee and Senator Garcia)

This bill creates s. 430.81, F.S., which authorizes the Department of Elderly Affairs to designate a home health agency as a teaching agency for home and community-based care if the home health agency:

- Has been a not-for-profit, designated community care for the elderly lead agency for home and community-based services for more than 10 consecutive years;
- Participates in a nationally recognized accreditation program and holds valid accreditation;
- Has been in business in Florida for a minimum of 20 consecutive years;
- Demonstrates an active program in multidisciplinary education and research that relates to gerontology;
- Has a formalized affiliation agreement with at least one established academic research university with a nationally accredited health professions program in Florida;
- Has salaried academic faculty from a nationally accredited health professions program;
- Is a Medicare and Medicaid certified home health agency that has participated in the nursing home diversion program for a minimum of five consecutive years; and
- Maintains insurance coverage or proof of financial responsibility.

The bill defines the term “teaching agency for home and community-based care” as “a home health agency that is licensed under part III of chapter 400 and has access to a resident population of sufficient size to support education, training, and research related to geriatric care.”

The bill also authorizes a teaching agency for home and community-based care to be affiliated with an academic health center in the state in order to foster the development of methods for improving and expanding the capabilities of home health agencies to respond to the medical, health care, psychological, and social needs of frail and elderly persons. A teaching agency for home and community-based care is to serve as a resource for research and for training health care professionals in providing health care services in homes and community-based settings to frail and elderly persons.

If approved by the Governor, these provisions take effect July 1, 2011.

*Vote: Senate 37-0; House 115-0*

## Committee on Children, Families, And Elder Affairs

### **CS/CS/HB 1037 — Continuing Care Retirement Communities**

by Health and Human Services Committee; Health and Human Services Quality Subcommittee; Reps. Bembry and Passidomo; and others (CS/SB 1340 by Children, Families, and Elder Affairs Committee and Senator Bogdanoff)

This bill authorizes the use of continuing care at-home contracts in order to allow individuals to receive services offered by a continuing care retirement community (CCRCs) in their own homes while reserving the right to shelter to be provided by the CCRC at a later date.

The bill defines the term “continuing care at-home” to mean “pursuant to a contract other than a contract described in subsection (2) [relating to continuing care], furnishing to a resident who resides outside the facility the right to future access to shelter and nursing care or personal services, whether such services are provided in the facility or in another setting designated in the contract, by an individual not related by consanguinity or affinity to the resident, upon payment of an entrance fee.”

The bill creates s. 651.057, F.S., to govern continuing care at-home (CCAH) contracts and provides requirements for providers offering CCAH contracts.

Section 651.021, F.S., is amended to require written approval from the Office of Insurance Regulation (OIR) before constructing a new facility or marketing the expansion of an existing facility equivalent to the addition of at least 20 percent of existing units or 20 percent or more in the number of CCAH contracts.

The bill amends s. 651.023, F.S., to provide that if a feasibility study is prepared by an independent certified public accountant, it must contain an examination opinion for the first three years of operations and financial projections having a compilation opinion for the next three years. If the feasibility study is prepared by an independent consulting actuary, it must contain mortality and morbidity data and an actuary’s signed opinion that the project as proposed is feasible and that the study has been prepared in accordance with standards adopted by the American Academy of Actuaries.

A certificate of authority may not be issued until the CCRC project has a minimum of 50 percent of the units reserved and proof is provided to OIR. The bill provides that if a provider offering CCAH contracts is applying for a certificate of authority or approval of an expansion, then the same minimum reservation requirements must be met for the continuing care and CCAH contracts, independently of each other.

The bill further provides that for an expansion of a continuing care facility or CCAH contracts, a minimum of 75 percent of the moneys paid for all or any part of an initial entrance fee for continuing care and 50 percent of the moneys paid for all or any part of the initial fee collected for CCAH shall be placed in an escrow account or on deposit with the department. Additionally, a provider is entitled to secure release of moneys held in escrow if, among other things, the



consultant who prepared the feasibility study (or an approved substitute) certifies *within 12 months before the date of filing for office approval* that there has been no material adverse change in status with regard to the study.

The bill amends s. 651.055, F.S., to provide that a prospective resident, resident, or resident's estate is not entitled to interest of any kind on a deposit or entrance fee unless specifically provided for in the continuing care contract. The bill permits contracts for continuing care and CCAH to include agreements to provide care for any duration. The bill also requires a provider to file a new residency contract for approval within 30 days after receipt of a letter from OIR notifying the provider of a noncompliant residency contract. The bill provides that pending review and approval of the new residency contract, the provider may continue to use the previously approved contract.

The bill amends s. 651.118, F.S., to provide that the Agency for Health Care Administration (AHCA) does not need to approve sheltered nursing home beds for the residences of residents living outside the facility pursuant to a CCAH contract.

If approved by the Governor, these provisions take effect July 1, 2011.

*Vote: Senate 39-0; House 114-0*

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

**CS/CS/SB 1366 — Child Welfare/Mental Health/Substance Abuse**

by Health Regulation Committee; Children, Families, and Elder Affairs Committee and Senator Storms

The bill includes managing entities and the agencies that have contracted with monitoring agents among the entities who must identify and implement changes that improve the efficiency of administrative monitoring of child welfare services and the efficiency of administrative, licensure, and programmatic monitoring of mental health and substance abuse service providers.

To improve efficiency, these entities must limit administrative monitoring to once every three years if the provider of child welfare services is accredited by the Joint Commission, the Commission on Accreditation of Rehabilitation Facilities (CARF), or the Council on Accreditation (COA), and must limit administrative, licensure, and programmatic monitoring to once every three years if the provider of mental health or substance abuse services is accredited by these entities.

The bill provides that the limitations on administrative, licensure, and programmatic monitoring apply only to providers of mental health or substance abuse services that are accredited for the services being monitored and, despite the limitations on such monitoring, these entities may continue to monitor the service provider as to specified areas of concern.

These entities must also allow the private sector to develop and implement an Internet-based, secure, and consolidated data warehouse and archive for maintaining certain records of providers of child welfare, mental health, or substance abuse services and the entities must use the data warehouse to request documents.

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

*Vote: Senate 36-0; House 116-0*

## Committee on Children, Families, And Elder Affairs

### **CS/SB 1992 – Background Screening**

by Budget Committee; Children, Families, and Elder Affairs Committee; and Senator Storms

The bill makes a number of changes to background screening requirements, primarily pertaining to individuals who work with Florida's vulnerable populations. Those changes include:

- Exempting from fingerprinting and screening requirements, mental health personnel working in a facility licensed under ch. 395, F.S., who work on an intermittent basis for less than 15 hours a week of direct, face-to-face contact with patients, except that individuals working in a mental health facility where the primary purpose is the mental health treatment of minors must be fingerprinted and meet screening requirements;
- Revising the list of professionals to include law enforcement officers so that officers are not required to be re-fingerprinted or rescreened if they are working or volunteering in a capacity that would otherwise require them to be screened;
- Exempting, from the definition of "direct service provider;" individuals who are related to the client, the client's spouse, and volunteers who assist on an intermittent basis for less than 20 hours of direct, face-to-face contact with a client per month;
- Exempting, from any additional Level 2 background screening requirements, an individual who was background screened pursuant to an Agency for Health Care Administration (AHCA) licensure requirement if they are providing a service within the scope of their licensed practice;
- Allowing the Department of Elderly Affairs (DOEA) to adopt rules to implement a schedule to phase in the background screening of individuals serving as direct service providers on July 31, 2010. The phase in must be completed by July 1, 2012;
- Specifying that employers of direct service providers previously qualified for employment or volunteer work under Level 1 screening standards, and individuals required to be screened according to the Level 2 screening standards, shall be rescreened every five years, except in cases where fingerprints are electronically retained and monitored by the Department of Law Enforcement (FDLE);
- Removing a provision relating to criminal offenses that was inadvertently applied to the DOEA;
- Requiring fingerprint vendors to meet certain technology requirements;
- Establishing a July 1, 2013, date for retention of prints for persons screened under ch. 435, F.S.;
- Allowing an employer to hire an employee for the purpose of training and orientation before the employee completes the screening process. The employee may not have direct contact with vulnerable persons until the screening process is complete;
- Providing personnel of a qualified entity, as defined in ch. 943, F.S., with the ability to apply for an exemption from disqualification from being employed;
- Establishing a rescreening schedule for individuals required by the AHCA to be screened;
- Requiring the Board of Nursing to waive background screening requirements for certain certified nursing assistants; and

- Requiring the Department of Children and Family Services, the Department of Juvenile Justice, the AHCA, the DOEA, the Department of Health, the Agency for Persons with Disabilities, and the Department of Law Enforcement to establish a statewide background screening workgroup, providing duties of the workgroup, and requiring a report to the Legislature by November 1, 2011.

If approved by the Governor, these provisions take effect July 1, 2011.

*Vote: Senate 39-0; House 106-0*

THE FLORIDA SENATE  
2011 SUMMARY OF LEGISLATION PASSED

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

**CS/HB 4045 — Assisted Living Facilities**

by Health and Human Services Committee and Rep. Hudson and others (CS/HB 692 by Rules Committee and Senator Richter)

This bill makes several changes to provisions of law relating to assisted living facilities (ALFs).

The bill amends s. 429.19, F.S., to remove the requirement that the Agency for Health Care Administration (AHCA or agency) develop and disseminate an annual list of ALFs sanctioned or fined for violations of state standards. The bill also eliminates language providing that AHCA may provide the information electronically or on its website. While the bill eliminates the requirement that AHCA publish this annual list, the agency would still have the discretion to do so if it wished.

The bill amends s. 429.23, F.S., to remove the requirement that all assisted living facilities report monthly to the Agency for Health Care Administration any liability claim filed against it.

This bill also amends s. 429.35, F.S., to remove the requirement that the AHCA distribute, within 60 days after the date of the biennial inspection visit or within 30 days after the date of any interim visit, all biennial and interim visit reports of ALFs to the local ombudsman council, at least one public library or to the county seat in which the inspected ALF is located if there is no library, and to the district Adult Services and Mental Health Program Offices.

Section 429.41, F.S., is amended to remove the requirement that the Department of Elderly Affairs (DOEA) submit a copy of proposed rules to the Speaker of the House of Representatives, the President of the Senate, and appropriate committees of substance for review and comment prior to enactment. The bill also removes the requirement that rules promulgated by DOEA encourage the development of homelike facilities which promote the dignity, individuality, personal strengths, and decision-making ability of residents.

Section 429.54, F.S., relating to the collection of information and local subsidies for ALFs, provides that DOEA may conduct field visits and audits of ALFs in order to collection information regarding the actual cost of providing room, board, and personal care to residents. Additionally, the law provides that local governments or organizations may contribute to the cost of care of residents in local ALFs by subsidizing the rate of state-authorized payment to such facilities. This bill repeals s. 429.54, F.S.

If approved by the Governor, these provisions take effect July 1, 2011.

*Vote: Senate 39-0; House 111-3*