

By the Committee on Education and Senators Klein, Clary, Silver, Brown-Waite, Kurth and Myers

304-2114-99

1 A bill to be entitled
 2 An act relating to school health services;
 3 providing a short title; amending s. 381.0056,
 4 F.S.; defining the term "entity" or "health
 5 care entity"; requiring that certain services
 6 be documented in a local school health services
 7 plan; specifying that certain persons be
 8 considered agents of the state for purposes of
 9 sovereign immunity when rendering specified
 10 services; creating s. 381.0058, F.S., relating
 11 to public-private partnerships for the
 12 provision of school nurse services; providing
 13 legislative intent and purpose; providing
 14 departmental duties; providing a proposal
 15 submission and review process; providing for
 16 the scope of services to be provided; providing
 17 for review and selection criteria; creating s.
 18 381.0059, F.S., relating to background
 19 screening requirements for school health
 20 services providers; specifying the persons who
 21 must submit to such screening; specifying
 22 payment for screening services; providing
 23 grounds for disqualification; requiring certain
 24 attestation to screening requirements; amending
 25 s. 409.9071, F.S.; deleting reference to
 26 billing agent consulting services; amending s.
 27 768.28, F.S.; providing for certain health care
 28 providers to be considered agents of the state
 29 for purposes of sovereign immunity; directing
 30 the Department of Health to determine a means
 31 by which certain units of local government may

1 receive a designation for purposes of federal
2 Title V programs; requiring a study of training
3 requirements for school health nurses;
4 providing legislative intent relating to
5 funding of the act; providing appropriations;
6 providing an effective date.

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

9
10 Section 1. This act may be cited as the "One School,
11 One Nurse Act."

12 Section 2. Section 381.0056, Florida Statutes, is
13 amended to read:

14 381.0056 School health services program.--

15 (1) This section may be cited as the "School Health
16 Services Act."

17 (2) The Legislature finds that health services
18 conducted as a part of the total school health program should
19 be carried out to appraise, protect, and promote the health of
20 students. School health services supplement, rather than
21 replace, parental responsibility and are designed to encourage
22 parents to devote attention to child health, to discover
23 health problems, and to encourage use of the services of their
24 physicians, dentists, and community health agencies.

25 (3) When used in this section:

26 (a) "Emergency health needs" means onsite management
27 and aid for illness or injury pending the student's return to
28 the classroom or release to a parent, guardian, designated
29 friend, or designated health care provider.

30 (b) "Entity" or "health care entity" means a unit of
31 local government or a political subdivision of the state; a

1 hospital licensed under chapter 395; a health maintenance
2 organization certified under chapter 641; a health insurer
3 authorized under the Florida Insurance Code; a community
4 health center; a migrant health center; a federally qualified
5 health center; an organization that meets the requirements for
6 nonprofit status under section 501(c)(3) of the Internal
7 Revenue Code; a private industry or business; or a
8 philanthropic foundation that agrees to participate in a
9 public-private partnership with a county health department,
10 local school district, or school in the delivery of school
11 health services, and agrees to the terms and conditions for
12 the delivery of such services as required by this section and
13 as documented in the local school health services plan.

14 (c)~~(b)~~ "Invasive screening" means any screening
15 procedure in which the skin or any body orifice is penetrated.

16 (d)~~(c)~~ "Physical examination" means a thorough
17 evaluation of the health status of an individual.

18 (e)~~(d)~~ "School health services plan" means the
19 document that describes the services to be provided, the
20 responsibility for provision of the services, the anticipated
21 expenditures to provide the services, and evidence of
22 cooperative planning by local school districts and county
23 health departments.

24 (f)~~(e)~~ "Screening" means presumptive identification of
25 unknown or unrecognized diseases or defects by the application
26 of tests that can be given with ease and rapidity to
27 apparently healthy persons.

28 (4) The Department of Health shall have the
29 responsibility, in cooperation with the Department of
30 Education, to supervise the administration of the school
31 health services program and perform periodic program reviews.

1 However, the principal of each school shall have immediate
2 supervisory authority over the health personnel working in the
3 school.

4 (5) Each county health department shall develop,
5 jointly with the district school board and the local school
6 health advisory committee, a school health services plan; and
7 the plan shall include, at a minimum, provisions for:

- 8 (a) Health appraisal;
9 (b) Records review;
10 (c) Nurse assessment;
11 (d) Nutrition assessment;
12 (e) A preventive dental program;
13 (f) Vision screening;
14 (g) Hearing screening;
15 (h) Scoliosis screening;
16 (i) Growth and development screening;
17 (j) Health counseling;
18 (k) Referral and followup of suspected or confirmed
19 health problems by the local county health department;
20 (l) Meeting emergency health needs in each school;
21 (m) County health department personnel to assist
22 school personnel in health education curriculum development;
23 (n) Referral of students to appropriate health
24 treatment, in cooperation with the private health community
25 whenever possible;
26 (o) Consultation with a student's parent or guardian
27 regarding the need for health attention by the family
28 physician, dentist, or other specialist when definitive
29 diagnosis or treatment is indicated;
30 (p) Maintenance of records on incidents of health
31 problems, corrective measures taken, and such other

1 information as may be needed to plan and evaluate health
2 programs; except, however, that provisions in the plan for
3 maintenance of health records of individual students must be
4 in accordance with s. 228.093;

5 (q) Health information which will be provided by the
6 school health nurses, when necessary, regarding the placement
7 of students in exceptional student programs and the
8 reevaluation at periodic intervals of students placed in such
9 programs; and

10 (r) Notification to the local nonpublic schools of the
11 school health services program and the opportunity for
12 representatives of the local nonpublic schools to participate
13 in the development of the cooperative health services plan.

14 (6) A nonpublic school may request to participate in
15 the school health services program. A nonpublic school
16 voluntarily participating in the school health services
17 program shall:

18 (a) Cooperate with the county health department and
19 district school board in the development of the cooperative
20 health services plan;

21 (b) Make available adequate physical facilities for
22 health services;

23 (c) Provide inservice health training to school
24 personnel;

25 (d) Cooperate with public health personnel in the
26 implementation of the school health services plan;

27 (e) Be subject to health service program reviews by
28 the Department of Health and the Department of Education; and

29 (f) At the beginning of each school year, inform
30 parents or guardians in writing that their children who are
31 students in the school will receive specified health services

1 as provided for in the district health services plan. A
2 student will be exempt from any of these services if his or
3 her parent or guardian requests such exemption in writing.
4 This paragraph shall not be construed to authorize invasive
5 screening; if there is a need for such procedure, the consent
6 of the student's parent or guardian shall be obtained in
7 writing prior to performing the screening. However, the laws
8 and rules relating to contagious or communicable diseases and
9 sanitary matters shall not be violated.

10 (7) The district school board shall:

11 (a) Coordinate the educational aspects of the school
12 health services program with the Florida Comprehensive Health
13 Education and Substance Abuse Prevention Act;

14 (b) Include health services and health education as
15 part of the comprehensive plan for the school district;

16 (c) Provide inservice health training for school
17 personnel;

18 (d) Make available adequate physical facilities for
19 health services; and

20 (e) At the beginning of each school year, inform
21 parents or guardians in writing that their children who are
22 students in the district schools will receive specified health
23 services as provided for in the district health services plan.
24 A student will be exempt from any of these services if his or
25 her parent or guardian requests such exemption in writing.
26 This paragraph shall not be construed to authorize invasive
27 screening; if there is a need for such procedure, the consent
28 of the student's parent or guardian shall be obtained in
29 writing prior to performing the screening. However, the laws
30 and rules relating to contagious or communicable diseases and
31 sanitary matters shall not be violated.

1 (8) The Department of Health, in cooperation with the
2 Department of Education, may adopt rules necessary to
3 implement this section.

4 (9) In the absence of negligence, no person shall be
5 liable for any injury caused by an act or omission in the
6 administration of school health services.

7 (10) Any person who provides services under a school
8 health services plan developed under this section and who is
9 the employee or agent of a health care entity that has agreed,
10 in writing, to act on behalf of the state as an agent of the
11 Department of Health to provide school health services, with
12 or without compensation, is, solely with respect to such
13 services, an agent of the state for purposes of s. 768.28.

14 Section 3. Section 381.0058, Florida Statutes, is
15 created to read:

16 381.0058 Matching funds for school nurse services
17 public-private partnerships.--

18 (1) It is the intent of the Legislature that matching
19 funds, in addition to those provided under s. 381.0056 for the
20 School Health Services Act and s. 381.0057 for school health
21 services funding, be provided in those communities where
22 interest in school health services is evidenced by the
23 participation of public or private entities in the funding or
24 delivery of school nurse services. The purpose of this funding
25 is to encourage the development of those programs that offer
26 the greatest potential for promoting the health of students,
27 increasing the availability of and access to nurses in the
28 school setting, and fostering greater community participation
29 in the delivery of school nurse services. Matching funds shall
30 be available specifically for implementation of programs as
31 described in ss. 381.0056, 381.0057, and 402.3026, and that

1 are designed to meet the particular needs of the community.
2 Further, it is the intent of the Legislature that
3 tobacco-settlement revenue be used to pay for health and human
4 services for children.

5 (2) The Secretary of Health, or his or her designee,
6 in cooperation with the Commissioner of Education, or his or
7 her designee, shall publicize the availability of matching
8 funds for public and private entities committed to enhancing
9 the availability of school nurse service, as reflected in
10 formal agreements that are part of the local school health
11 services plan.

12 (3) The Secretary of Health, or his or her designees,
13 in cooperation with the Commissioner of Education, or his or
14 her designees, in equal representation, shall form a committee
15 to determine the eligibility of sites to receive matching
16 funds.

17 (4) Any community that seeks to receive state matching
18 funds under this section must submit a proposal to the
19 committee established in subsection (3). The proposal must
20 state the goals of the program, provide specific plans for
21 enhancing local resources available for school nurse services,
22 and describe all of the health services to be made available
23 to students from matching funds provided under this section. A
24 county health department or school district receiving matching
25 funds may not supplant more than 50 percent of the current
26 local contributions to school health services funding, as
27 documented in the local school health services plan.

28 (5) In addition to the merits of a proposal, the award
29 of matching funds must be based on those proposals from sites
30 that include county health departments and school districts
31 that most closely meet the following criteria:

1 (a) Have evidence of a comprehensive inservice staff
2 development plan.

3 (b) Have evidence of a cooperative working
4 relationship between the county health department and the
5 school district and have community as well as parental
6 support.

7 (c) Have a high percentage of subsidized school
8 lunches.

9 (d) Have a high incidence of medically underserved
10 high-risk children, low-birthweight babies, infant mortality,
11 or teenage pregnancy.

12 (e) Have a high incidence of children with chronic
13 health conditions or high-risk behavioral problems.

14 (f) Have documented in the local school health
15 services plan a commitment from community entities to fund or
16 provide other direct resources for the enhanced availability
17 of school health services.

18 (g) Have a plan to ensure billing for Medicaid funding
19 for services rendered under the certified school match program
20 or the county health department certified match program as
21 specified in s. 409.9122.

22
23 While these criteria are part of the proposal review process,
24 these criteria are not to be construed as the sole factors to
25 be considered in the proposal review process. The ability and
26 interest of a site in addressing locally identified needs and
27 priorities must also be considered. In addition, receipt of
28 matching funds is not intended to diminish a site's
29 eligibility for base funding for school health services.

30 Section 4. Section 381.0059, Florida Statutes, is
31 created to read:

1 381.0059 Background screening requirements for school
2 health services personnel.--

3 (1)(a) Any person who provides services under a school
4 health services plan pursuant to s. 381.0056 must complete
5 level 2 screening as provided in chapter 435. A person may
6 satisfy the requirements of this subsection by submitting
7 proof of compliance with the requirements of level 2 screening
8 under s. 435.04, conducted within 12 months before the date
9 that person initially provides services under a school health
10 services plan pursuant to s. 381.0056. Any person who provides
11 services under a school health services plan pursuant to s.
12 381.0056 shall be on probationary status pending the results
13 of the level 2 screening.

14 (b) In order to conduct level 2 screening, any person
15 who provides services under a school health services plan
16 pursuant to s. 381.0056 must furnish to the Department of
17 Health a full set of fingerprints to enable the department to
18 conduct a criminal background investigation. Each person who
19 provides services under a school health services plan pursuant
20 to s. 381.0056 must file a complete set of fingerprints taken
21 by an authorized law enforcement officer and must provide
22 sufficient information for a statewide criminal records
23 correspondence check through the Florida Department of Law
24 Enforcement. The Department of Health shall submit the
25 fingerprints to the Florida Department of Law Enforcement for
26 a statewide criminal history check, and the Florida Department
27 of Law Enforcement shall forward the fingerprints to the
28 Federal Bureau of Investigation for a national criminal
29 history check.

30 (c) The person subject to the required background
31 screening or his or her employer must pay the fees required to

1 obtain the background screening. Payment for the screening and
2 the abuse registry check must be submitted to the Department
3 of Health. The Florida Department of Law Enforcement shall
4 charge the Department of Health for a level 2 screening at a
5 rate sufficient to cover the costs of such screening pursuant
6 to s. 943.053(3). The Department of Health shall establish a
7 schedule of fees to cover the costs of the level 2 screening
8 and the abuse registry check. The applicant or his or her
9 employer who pays for the required screening may be reimbursed
10 by the Department of Health from funds designated for this
11 purpose.

12 (2)(a) When the Department of Health has reasonable
13 cause to believe that grounds exist for the disqualification
14 of any person providing services under a school health
15 services plan pursuant to s. 381.0056, as a result of
16 background screening, it shall notify the person in writing,
17 stating the specific record that indicates noncompliance with
18 the level 2 screening standards. The Department of Health must
19 disqualify any person from providing services under a school
20 health services plan pursuant to s. 381.0056 if the department
21 finds that the person is not in compliance with the level 2
22 screening standards. A person who provides services under a
23 school health plan pursuant to s. 381.0056 on a probationary
24 status and who is disqualified because of the results of his
25 or her background screening may contest that disqualification.

26 (b) As provided in s. 435.07, the Department of Health
27 may grant an exemption from disqualification to a person
28 providing services under a school health services plan
29 pursuant to s. 381.0056 who has not received a professional
30 license or certification from the Department of Health.

31

1 (c) As provided in s. 435.07, the Department of Health
2 may grant an exemption from disqualification to a person
3 providing services under a school health services plan
4 pursuant to s. 381.0056 who has received a professional
5 license or certification from the Department of Health.

6 (3) Any person who is required to undergo the
7 background screening to provide services under a school health
8 plan pursuant to s. 381.0056 who refuses to cooperate in such
9 screening or refuses to submit the information necessary to
10 complete the screening, including fingerprints, shall be
11 disqualified for employment or volunteering in such position
12 or, if employed, shall be dismissed.

13 (4) Under penalty of perjury, each person who provides
14 services under a school health plan pursuant to s. 381.0056
15 must attest to meeting the level 2 screening requirements for
16 participation under the plan and agree to inform the
17 Department of Health immediately if convicted of any
18 disqualifying offense while providing services under a school
19 health services plan pursuant to s. 381.0056.

20 Section 5. Subsection (1) of section 409.9071, Florida
21 Statutes, is amended to read:

22 409.9071 Medicaid provider agreements for school
23 districts certifying state match.--

24 (1) The agency shall submit a state plan amendment by
25 September 1, 1997, for the purpose of obtaining federal
26 authorization to reimburse school-based services as provided
27 in s. 236.0812 pursuant to the rehabilitative services option
28 provided under 42 U.S.C. s. 1396d(a)(13). ~~For purposes of this~~
29 ~~section, billing agent consulting services shall be considered~~
30 ~~billing agent services, as that term is used in s. 409.913(9),~~
31 ~~and, as such, payments to such persons shall not be based on~~

1 ~~amounts for which they bill nor based on the amount a provider~~
2 ~~receives from the Medicaid program. This provision shall not~~
3 ~~restrict privatization of Medicaid school-based services.~~
4 Subject to any limitations provided for in the General
5 Appropriations Act, the agency, in compliance with appropriate
6 federal authorization, shall develop policies and procedures
7 and shall allow for certification of state and local education
8 funds which have been provided for school-based services as
9 specified in s. 236.0812 and authorized by a physician's order
10 where required by federal Medicaid law. Any state or local
11 funds certified pursuant to this section shall be for children
12 with specified disabilities who are eligible for both Medicaid
13 and part B or part H of the Individuals with Disabilities
14 Education Act (IDEA), or the exceptional student education
15 program, or who have an individualized educational plan.

16 Section 6. Subsection (20) is added to section 768.28,
17 Florida Statutes, 1998 Supplement, to read:

18 768.28 Waiver of sovereign immunity in tort actions;
19 recovery limits; limitation on attorney fees; statute of
20 limitations; exclusions; indemnification; risk management
21 programs.--

22 (20)(a) A health care provider, or any employee or
23 agent of a health care entity, who has contractually agreed to
24 act on behalf of the state as an agent of the Department of
25 Health to provide school health services as specified in a
26 school health services plan developed under s. 381.0056, with
27 or without compensation, is, solely with respect to such
28 services, an agent of the state for purposes of this section
29 while acting within the scope of his or her license, acting
30 under the supervision of the county health department, and
31 acting pursuant to guidelines established in the school health

1 services plan. For purposes of this subsection, the
2 partnership agreements documented in the school health
3 services plan developed by the county health department and
4 district school board under s. 381.0056, including related
5 contracts and memoranda of agreement, constitute a contract.
6 Such contract must provide for the indemnification of the
7 state by the agent for any liabilities incurred, up to the
8 limits specified in this chapter.

9 (b) This subsection does not designate a person who is
10 not an employee of a unit of government and who provides
11 school health services as an employee or agent of the state
12 for purposes of chapter 440.

13 Section 7. The Department of Health shall explore,
14 with the federal Department of Health and Human Services, ways
15 by which units of local government, other than county health
16 departments, which participate in a school nurse services
17 public-private partnership developed under section 381.0058,
18 Florida Statutes, may be entitled to designation as Title V
19 (Maternal and Child Health Block Grant) agencies. If the
20 federal Department of Health and Human Services approves, the
21 department shall adopt by rule the criteria and guidelines
22 necessary to ensure oversight, flexibility, and accountability
23 for purposes of granting such a designation. This designation
24 is not intended to obligate any direct funding to the
25 designated entity from the Title V funds of the Department of
26 Health. Any money earned from Medicaid by such a designated
27 entity must be reinvested in the school nurse services
28 public-private partnership.

29 Section 8. The Department of Health shall study the
30 feasibility of requiring additional training for nurses
31 providing school health services. The Secretary of Health

1 shall appoint two representatives from each of the following
2 entities to serve on a study group: the Department of Health;
3 the Department of Education; the Florida Nurses Association;
4 the State University System; and the Board of Nursing. The
5 Secretary of Health shall appoint a member of the study group
6 to serve as chair. Members of the study group shall serve
7 without compensation but are entitled to reimbursement from
8 existing resources of their employing organization for per
9 diem and travel expenses incurred in the performance of their
10 duties, as provided in section 112.061, Florida Statutes. The
11 study group shall ascertain which services are being rendered
12 and which aspects of these services are sufficiently unique to
13 justify specific training in preparation for the delivery of
14 such services; the appropriate duration for and content of a
15 training curriculum for school health nurses; the costs and
16 availability of training programs and resources for such
17 training programs; the number of nurses currently employed in
18 a school health capacity and whether these nurses require
19 additional training or should be grandfathered-in; the factors
20 that motivate nurses to seek such additional training; and any
21 existing national training programs and their suitability for
22 application in this state. The department shall report the
23 findings and recommendations of the work group to the
24 Governor, the President of the Senate, and the Speaker of the
25 House of Representatives by February 1, 2000.

26 Section 9. Legislative intent; funding.--It is the
27 intent of the Legislature that sufficient resources be made
28 available to fund a nurse in every public school in the state,
29 pursuant to this act. The Legislature recognizes that
30 extensive resources will be necessary to achieve this intent,
31 and that a portion of these resources can be found from a

1 variety of existing resources. The Legislature recognizes that
2 existing funding for basic and comprehensive school health
3 services and full service schools, as created under sections
4 381.0056 and 381.0057, Florida Statutes, can be used as
5 partial funding. The Legislature further recognizes that
6 funding earned by local school districts and county health
7 departments from the Agency for Health Care Administration
8 from the delivery of services to Medicaid-eligible students
9 can also be used as partial funding. Finally, the Legislature
10 recognizes that another source of funding is local funding
11 currently being used for school health services, which can now
12 be eligible for matching funds under school nurse services
13 public-private partnerships as created by this act. It is the
14 intent of the Legislature that the remainder of resources
15 necessary for placing a nurse in every school will need to be
16 derived from the state's tobacco settlement revenue.

17 Section 10. The sum of \$75,000 is appropriated from
18 nonrecurring General Revenue to the Department of Health for
19 the purpose of convening a school health summit as recommended
20 by Senate Interim Project Report 98-30, September 1998.

21 Section 11. This act shall take effect July 1, 1999.

22
23 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
24 COMMITTEE SUBSTITUTE FOR
25 SB 1356

26 The committee substitute amends s. 409.9071, F.S., to delete a
27 restriction for billing agent consultant services for Medicaid
28 reimbursement for school based services.
29
30
31