

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1535 w/CS Child Advocacy Trust Fund
SPONSOR(S): Gelber
TIED BILLS: HB 1533 **IDEN./SIM. BILLS:** CS/SB 1048

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Judiciary	14 Y, 0 N w/CS	Birtman	Havlicak
2) Finance & Tax		Levin	Diez-Arguelles
3) Judicial Appropriations (Sub)			
4) Appropriations			
5)			

SUMMARY ANALYSIS

This bill creates the Child Advocacy Trust Fund within the Department of Children and Family Services. The source of funding for this proposed trust fund is designated court costs for specified crimes against children (see HB 1533) which are to be disbursed to the Florida Network of Children's Advocacy Centers, Inc., to provide funding for child advocacy centers that are members of the Network.

HB 1535 specifies that funds generated are to be dispersed to the Florida Network of Children's Advocacy Centers, Inc., instead of directly to the child advocacy centers; requires that funds generated must be used to provide community-based services that augment, but do not duplicate any services provided by a state agency; requires the Board of Directors of the Florida Network of Children's Advocacy Centers, Inc. to develop funding criteria and allocation methodologies to disburse funds to the children's advocacy centers; authorizes 10% of all funds generated to be retained by the Florida Network of Children's Advocacy Centers, Inc.; and directs funds generated to be appropriated to a 'grants in aid' category to provide funds to match local contributions.

The bill requires that any balances remaining in the trust fund at the end of a fiscal year shall remain in the trust fund and be available for carrying out the purposes of the trust fund, and requires legislative review to recommend termination or re-creation of the trust fund before its scheduled termination date of July 1, 2007.

The bill has no fiscal impact on the state.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1535b.ft.doc
DATE: April 21, 2003

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|--|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain:

To the extent that a new trust fund is being created, it would appear that the size of government has not been reduced.

B. EFFECT OF PROPOSED CHANGES:

Creation of Trust Funds: Trust funds are monies received by the state which, under law or trust fund agreement, are segregated for a purpose.¹ The state constitution prohibits the creation by law of a trust fund of the state or other public body without three-fifths vote of the membership of each house of the Legislature, and that a trust fund must be created in a separate bill for that purpose only.² The Legislature has articulated statutory criteria governing the establishment of trust funds. The statutory language creating a trust fund must, at a minimum, specify:

- The name of the trust fund;
- The agency or branch of state government responsible for administering the trust fund;
- The requirements or purposes that the trust fund are established to meet; and
- The sources of monies to be credited to the trust fund or specific sources of receipts to be deposited in the trust funds.³

Agency heads and the judicial and legislative branches must certify to the Governor the balance of any appropriation, except for fixed capital outlay, which is not dispersed but which is expended or contracted to be expended at the end of each fiscal year.⁴ However, trust fund revenues left at the end of a fiscal year may remain in a specified fund for use in the following year, by reference to s. 216.351, F.S.⁵

Effect of Proposed Changes: This bill creates the Child Advocacy Trust Fund within the Department of Children and Family Services. The purpose of the trust fund is to receive funds pursuant to newly created s. 938.10, F.S. (see HB 1533) to be disbursed to the Florida Network of Children’s Advocacy Centers, Inc. for the purpose of providing community-based services that augment, but that do not duplicate services provided by state agencies. The bill allows the Network to retain 10% of the funds for network expenditures and to provide funds to match local contributions in communities establishing children’s advocacy centers. The bill further provides that any balance in the trust fund at the end of any fiscal year shall remain in the trust fund at the end of the year and shall be available for carrying out the purposes of the trust fund.

Termination of Trust Funds: Trust funds created after November 4, 1992, shall terminate not more than four years after the effective date of the act authorizing the creation of the trust fund, unless the

¹ See s. 215.32(2)(b)1., F.S.

² See Article 3, section 19(f) of the State Constitution.

³ See s. 215.3207, F.S.

⁴ See s. 216.301, F.S.

⁵ Section 216.351, F.S., provides that subsequent inconsistent laws shall supercede this chapter only to the extent that they do so by express reference to this section.

Legislature by law sets a shorter authorization period for the trust fund.⁶ The Legislature has provided a schedule and process for reviewing trust funds.⁷

Effect of Proposed Changes: The bill provides for termination of the Child Advocacy Trust Fund on July 1, 2007, unless terminated sooner. The Legislature is required to review the trust fund prior to its scheduled termination.

Child Advocacy Centers: Children's Advocacy Centers are community based centers that provide a neutral, child-friendly setting for interviews, medical examinations, and the counseling of child victims of abuse and neglect. Information provided by the Florida Network of Children's Advocacy Centers, Inc. reveals that the goal of Children's Advocacy Centers are to reduce the number of times a child victim must be interviewed; facilitate effective joint investigations; increase successful prosecutions; and provide for prompt access to mental health, medical, and other appropriate services.

The Florida Network of Children's Advocacy Centers, Inc., is a non-profit organization and the member organization for Florida's Child Advocacy Centers. The Network is a state chapter of the National Children's Alliance, and its stated purposes are to provide advocacy for centers on a state and national level; provide mentoring, leadership, and training to centers; and provide a mechanism to establish strategic short and long range plans for the overall mission and continued development of Children's Advocacy Centers.

There are currently 20 Children's Advocacy Centers in Florida, which rely primarily on grants, foundations, and donations for funding. In order to receive state funds, a child advocacy center must be certified by the Florida Network of Children's Advocacy Centers, Inc., as a full member⁸, and meet the following standards:

- Be a private, non-profit incorporated agency or a governmental entity;
- Be a child protection team, or by written agreement incorporate the participation and services of a child protection team;
- Have a neutral, child-focused facility where joint department and law enforcement interviews take place with children in appropriate cases of suspected sexual or physical abuse;
- Have a minimum designated staff that is supervised and approved by the local board of directors or governmental entity;
- Have a multidisciplinary case review team that meets regularly;⁹
- Provide case tracking of child abuse cases seen through the center;
- Collect data on the number of child abuse cases seen at the center;
- Provide referrals for medical exams and mental health therapy;
- Provide training for various disciplines in the community that deal with child abuse;
- Have an interagency commitment, in writing, covering those aspects of agency participation in a multidisciplinary approach to the handling of child sexual abuse and serious physical abuse cases;
- Provide assurances that child advocacy center employees and volunteers at the center are trained and screened.¹⁰

The Office of Program Policy Analysis and Government Accountability (OPPAGA) conducted a special review of Children's Advocacy Centers which found that in 2001, twelve full member children's

⁶ See Article 3, section 19(f) of the State Constitution.

⁷ See s. 215.3208, F.S.

⁸ Full members of the National Children's Alliance are located in Alachua County, Bay County, Brevard County, Collier County, Dade County, Duval, St. John's, Clay, Baker, and Nassau Counties; Highlands County; Hillsborough County; Lake and Sumter Counties; Lee, Charlotte, Hendry, Glades, and Collier Counties; Okaloosa County; Orange County; Polk County; and Volusia and Flagler Counties. Associate members are located in Broward; Escambia and Santa Rosa; Marion; Palm Beach; Pinellas; and Seminole Counties.

⁹ The team must consist of representatives from the Office of the State Attorney, the Department of Children and Family Services, the child protection team, mental health services, law enforcement, and the child advocacy center staff. Medical personnel and a victim's advocate may be part of the team.

¹⁰ See s. 39.3035, F.S.

advocacy centers served 15,559 children. While the report indicated that children's advocacy centers appeared beneficial, the report also found that the centers lack accountability.¹¹ Centers are required to report some fiscal and programmatic information to their boards and funding sources, and centers that are full members of the National Children's Alliance must also maintain client information in a case tracking system and report caseloads, client demographics, and case disposition biannually to the Alliance.

C. SECTION DIRECTORY:

Section 1 creates the Child Advocacy Trust Fund; provides for disbursement; provides for an annual carry forward of funds; and provides for future legislative review and termination or re-creation.

Section 2 provides an effective date of July 1, 2003, if HB 1533 or similar legislation is adopted.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not affect municipalities or counties.

2. Other:

¹¹ See "Children's Advocacy Centers Appear Beneficial But Have Limited Accountability", OPPAGA Report No. 02-44, August, 2002.

Article 3, section 19(f) of the State Constitution prohibits the creation by law of a trust fund of the state or other public body without a three-fifths vote of the membership of each house of the Legislature.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On April 2, 2003, the Judiciary Committee adopted an amendment and an amendment to the amendment that specifies that funds generated are to be dispersed to the Florida Network of Children's Advocacy Centers, Inc., instead of directly to the child advocacy centers; requires that funds generated must be used to provide community-based services that augment, but do not duplicate any services provided by a state agency; requires the Board of Directors of the Florida Network of Children's Advocacy Centers, Inc. to develop funding criteria and allocation methodologies to disburse funds to the children's advocacy centers; authorizes 10% of all funds generated to be retained by the Florida Network of Children's Advocacy Centers, Inc.; and directs funds generated to be appropriated to a 'grants in aid' category to provide funds to match local contributions. This analysis is written to the bill as amended.