

Bill No. CS for CS for SB 1280

Amendment No. \_\_\_\_ Barcode 394374

CHAMBER ACTION

Senate

House

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Senator Lynn moved the following amendment:

**Senate Amendment (with title amendment)**

On page 120, lines 20 and 21, delete those lines

and insert:

Section 52. Paragraph (q) is added to subsection (2) of section 39.202, Florida Statutes, to read:

39.202 Confidentiality of reports and records in cases of child abuse or neglect.--

(2) Except as provided in subsection (4), access to such records, excluding the name of the reporter which shall be released only as provided in subsection (5), shall be granted only to the following persons, officials, and agencies:

(q) Staff of a child advocacy center that has met the standards set forth in s. 39.3035 who are actively involved in providing the services of the center to the child.

Section 53. Subsection (6) and paragraph (b) of subsection (9) of section 39.301, Florida Statutes, are amended to read:

Bill No. CS for CS for SB 1280

Amendment No. \_\_\_\_ Barcode 394374

1           39.301 Initiation of protective investigations.--  
2           (6) For each report accepted by the hotline for  
3 protective investigation, an assessment of risk and the  
4 perceived needs for the child and family shall be conducted.  
5 This assessment shall be initiated immediately upon receipt of  
6 the report from the hotline and shall be conducted in a manner  
7 that is sensitive to the social, economic, and cultural  
8 environment of the family. ~~The~~ This assessment must include a  
9 face-to-face interview with the child, other siblings,  
10 parents, and other children and adults in the household and an  
11 onsite assessment of the child's residence. During the  
12 department's involvement with the child and family as a result  
13 of the abuse report, the risk assessment shall continuously be  
14 reviewed and amended to reflect any change to the risks and  
15 needs of the child and family.

16           (9)

17           (b) The onsite child protective investigation to be  
18 performed shall include a face-to-face interview with the  
19 child; other siblings; parents, legal custodians, or  
20 caregivers; and other adults in the household and an onsite  
21 assessment of the child's residence in order to:

22           1. Determine the composition of the family or  
23 household, including the name, address, date of birth, social  
24 security number, sex, and race of each child named in the  
25 report; any siblings or other children in the same household  
26 or in the care of the same adults; the parents, legal  
27 custodians, or caregivers; and any other adults in the same  
28 household.

29           2. Determine whether there is indication that any  
30 child in the family or household has been abused, abandoned,  
31 or neglected; the nature and extent of present or prior

Bill No. CS for CS for SB 1280

Amendment No. \_\_\_\_ Barcode 394374

1 injuries, abuse, or neglect, and any evidence thereof; and a  
2 determination as to the person or persons apparently  
3 responsible for the abuse, abandonment, or neglect, including  
4 the name, address, date of birth, social security number, sex,  
5 and race of each ~~such~~ person.

6           3. Determine the immediate and long-term risk to each  
7 child by conducting state and federal records checks,  
8 including, when feasible, the records of the Department of  
9 Corrections, on the parents, legal custodians, or caregivers,  
10 and any other persons in the same household. This information  
11 shall be used solely for purposes supporting the detection,  
12 apprehension, prosecution, pretrial release, posttrial  
13 release, or rehabilitation of criminal offenders or persons  
14 accused of the crimes of child abuse, abandonment, or neglect  
15 and shall not be further disseminated or used for any other  
16 purpose. The department's child protection investigators are  
17 hereby designated a criminal justice agency for the purpose of  
18 accessing criminal justice information to be used for  
19 enforcing this state's laws concerning the crimes of child  
20 abuse, abandonment, and neglect.

21           4. Determine the immediate and long-term risk to each  
22 child through utilization of standardized risk assessment  
23 instruments.

24           5. Based on the information obtained from available  
25 sources, complete the risk assessment instrument within 48  
26 hours after the initial contact and, if determined necessary  
27 by the assessment needed, develop and implement a safety plan,  
28 develop and implement a case plan, or develop and implement  
29 both a safety plan and a case plan.

30           6. Determine the protective, treatment, and  
31 ameliorative services necessary to safeguard and ensure the

Bill No. CS for CS for SB 1280

Amendment No. \_\_\_\_ Barcode 394374

1 child's safety and well-being and development, and cause the  
2 delivery of those services through the early intervention of  
3 the department or its agent. The training provided to staff  
4 members who conduct child protective investigations must  
5 include instruction on how and when to use the injunction  
6 process under s. 39.504 or s. 741.30 to remove a perpetrator  
7 of domestic violence from the home as an intervention to  
8 protect the child.

9 Section 54. Section 39.701, Florida Statutes, is  
10 amended to read:

11 39.701 Judicial review.--

12 (1)(a) The court shall retain ~~have continuing~~  
13 jurisdiction in accordance with this section and shall review  
14 the status of the child at least once every 6 months as  
15 required by this subsection or more frequently if the court  
16 deems it necessary or desirable.

17 (b) The court shall retain jurisdiction over a child  
18 returned to his or her parents for a minimum period of 6  
19 months following the reunification, but, at that time, based  
20 on a report of the social service agency and the guardian ad  
21 litem, if one has been appointed, and any other relevant  
22 factors, the court shall make a determination as to whether  
23 supervision by the department and the court's jurisdiction  
24 shall continue or be terminated.

25 (2)(a) ~~The court shall review~~ The status of the child  
26 ~~and shall be reviewed hold a hearing as provided in this part~~  
27 at least every 6 months until the child reaches permanency  
28 status. This review may be conducted by the court or a citizen  
29 review panel authorized by the court, if one has been  
30 authorized.

31 (b) For reviews conducted by the court, the court may

Bill No. CS for CS for SB 1280

Amendment No. \_\_\_\_ Barcode 394374

1 dispense with the attendance of the child at the judicial  
2 review hearing, but may not dispense with the hearing or the  
3 presence of other parties to the review unless before the  
4 ~~review~~ a hearing a review is held before a citizen review  
5 panel. If the court conducts the review without the presence  
6 of the child, the court must specifically find whether the  
7 department has direct knowledge of the care the child is  
8 receiving.

9 ~~(c)(b)~~ Citizen review panels may conduct hearings to  
10 ~~review the status of a child.~~ The court shall select the cases  
11 appropriate for referral to the citizen review panels and may  
12 order the attendance of the parties at the reviews ~~review~~  
13 ~~panel hearings~~. However, any party may object to the referral  
14 of a case to a citizen review panel. Whenever ~~such~~ an  
15 objection has been filed with the court, the court shall  
16 review the substance of the objection and may conduct the  
17 review itself or refer the review to a citizen review panel.  
18 All parties retain the right to take exception to the findings  
19 or recommendations ~~recommended orders~~ of a citizen review  
20 panel in accordance with Rule 1.490(h), Florida Rules of Civil  
21 Procedure.

22 ~~(d)(c)~~ Notice of a review ~~hearing~~ by a citizen review  
23 panel must be provided as set forth in subsection (5). At the  
24 conclusion of a citizen review panel review ~~hearing~~, each  
25 party may propose recommendations ~~a recommended order~~ to the  
26 chairperson of the panel. Thereafter, the citizen review panel  
27 shall submit its report, copies of the proposed  
28 recommendations ~~recommended orders~~, and a copy of the panel's  
29 recommendations ~~recommended order~~ to the court. The citizen  
30 review panel's recommendations ~~recommended order~~ must be  
31 limited to the dispositional options available to the court in

Bill No. CS for CS for SB 1280

Amendment No. \_\_\_\_ Barcode 394374

1 subsection (8). Each party may file exceptions to the report  
2 and recommendations ~~recommended order~~ of the citizen review  
3 panel in accordance with Rule 1.490, Florida Rules of Civil  
4 Procedure.

5 (3)(a) The initial judicial review hearing must be  
6 held no later than 90 days after the date of the disposition  
7 hearing or after the date of the hearing at which the court  
8 approves the case plan, whichever comes first, but in no event  
9 shall the review be held later than 6 months after the date  
10 the child was removed from the home. A citizen review panel  
11 ~~panels may shall~~ not conduct more than two consecutive reviews  
12 without the child and the parties appearing ~~coming~~ before the  
13 court for a judicial review hearing.

14 (b) If the citizen review panel recommends extending  
15 the goal of reunification for any case plan beyond 12 months  
16 from the date the child was removed from the home or the case  
17 plan was adopted, whichever date came first, the court must  
18 schedule a judicial review hearing to be conducted by the  
19 court within 30 days after receiving the recommendation from  
20 the citizen review panel.

21 (c) If the child is placed in the custody of the  
22 department or a licensed child-placing agency for the purpose  
23 of adoptive placement, judicial reviews must be held at least  
24 every 6 months until the adoption is finalized.

25 (d) If the department and the court have established a  
26 formal agreement that includes specific authorization for  
27 particular cases, the department may conduct administrative  
28 reviews instead of the judicial reviews for children in  
29 out-of-home care. Notices of ~~such~~ administrative reviews must  
30 be provided to all parties. However, an administrative review  
31 may not be substituted for the first judicial review, and in

Bill No. CS for CS for SB 1280

Amendment No. \_\_\_\_ Barcode 394374

1 every case the court must conduct a judicial review at least  
2 every 6 months. Any party dissatisfied with the results of an  
3 administrative review may petition for a judicial review.

4 (e) The clerk of the circuit court shall schedule  
5 judicial review hearings in order to comply with the mandated  
6 times cited in this section.

7 (f) In each case in which a child has been voluntarily  
8 placed with the licensed child-placing agency, the agency  
9 shall notify the clerk of the court in the circuit where the  
10 child resides of the such placement no later than within 5  
11 working days after the placement. Notification of the court is  
12 not required for any child who will be in out-of-home care no  
13 longer than 30 days unless that child is placed in out-of-home  
14 care a second time within a 12-month period. If the child is  
15 returned to the custody of the parents before the scheduled  
16 review or hearing or if the child is placed for adoption, the  
17 child-placing agency shall notify the court of the child's  
18 return or placement no later than within 5 working days after  
19 the return or placement, and the clerk of the court shall  
20 cancel the review hearing.

21 (4) The court shall schedule the date, time, and  
22 location of the next judicial review hearing or review by the  
23 citizen review panel during the judicial review hearing or the  
24 review by the citizen review panel which and shall be listed  
25 list same in the judicial review order.

26 (5) Notice of a judicial review hearing or a citizen  
27 review panel review hearing, and a copy of the motion for  
28 judicial review, if any, must be served by the clerk of the  
29 court upon:

30 (a) The social service agency charged with the  
31 supervision of care, custody, or guardianship of the child, if

Bill No. CS for CS for SB 1280

Amendment No. \_\_\_\_ Barcode 394374

1 that agency is not the movant.

2 (b) The foster parent or legal custodian in whose home  
3 the child resides.

4 (c) The parents.

5 (d) The guardian ad litem for the child, or the  
6 representative of the guardian ad litem program if the program  
7 has been appointed.

8 (e) Any preadoptive parent.

9 (f) Any ~~Such~~ other person ~~persons~~ as the court may in  
10 its discretion direct.

11

12 Service of notice is not required on any person ~~of the persons~~  
13 listed in paragraphs (a)-(f) if the person was present at the  
14 previous hearing or review during which the date, time, and  
15 location of the hearing was announced.

16 (6)(a) Before ~~Prior to~~ every judicial review hearing  
17 or citizen review panel review ~~hearing~~, the social service  
18 agency shall make an investigation and social study concerning  
19 all pertinent details relating to the child and shall furnish  
20 to the court ~~or citizen review panel~~ a written report that  
21 includes, but is not limited to:

22 1. A description of the type of placement the child is  
23 in at the time of the hearing or review, including the safety  
24 of the child and the continuing necessity for and  
25 appropriateness of the placement.

26 2. Documentation of the diligent efforts made by all  
27 parties to the case plan to comply with each applicable  
28 provision of the plan.

29 3. The amount of fees assessed and collected during  
30 the period of time being reported.

31 4. The services provided to the foster family or legal



Bill No. CS for CS for SB 1280

Amendment No. \_\_\_\_ Barcode 394374

1 | custodian in an effort to address the needs of the child as  
2 | indicated in the case plan.

3 |         5. A statement that either:

4 |             a. The parent, though able to do so, did not comply  
5 | substantially with the provisions of the case plan, and the  
6 | agency recommendations;

7 |             b. The parent did substantially comply with the  
8 | provisions of the case plan; or

9 |             c. The parent has partially complied with the  
10 | provisions of the case plan, with a summary of additional  
11 | progress needed and the agency recommendations.

12 |         6. A statement from the foster parent or legal  
13 | custodian providing any material evidence concerning the  
14 | return of the child to the parent or parents.

15 |         7. A statement concerning the frequency, duration, and  
16 | results of the parent-child visitation, if any, and the agency  
17 | recommendations for an expansion or restriction of future  
18 | visitation.

19 |         8. The number of times a child has been removed from  
20 | his or her home and placed elsewhere, the number and types of  
21 | placements that have occurred, and the reason for the changes  
22 | in placement.

23 |         9. The number of times a child's educational placement  
24 | has been changed, the number and types of educational  
25 | placements which have occurred, and the reason for any change  
26 | in placement.

27 |         10. Copies of all medical, psychological, and  
28 | educational records that support the terms of the case plan  
29 | and that have been produced concerning the child, parents, or  
30 | any caregiver since the last judicial review hearing or  
31 | citizen review panel review.

Bill No. CS for CS for SB 1280

Amendment No. \_\_\_\_ Barcode 394374

1 (b) A copy of the social service agency's written  
2 report and the written report of the guardian ad litem must be  
3 served on all parties whose whereabouts are known; to the  
4 foster parents or legal custodians; and to the citizen review  
5 panel, at least 72 hours before the judicial review hearing or  
6 citizen review panel review hearing. The requirement for  
7 providing parents with a copy of the written report does not  
8 apply to those parents who have voluntarily surrendered their  
9 child for adoption or who have had their parental rights to  
10 the child terminated.

11 (c) In a case in which the child has been permanently  
12 placed with the social service agency, the agency shall  
13 furnish to the court a written report concerning the progress  
14 being made to place the child for adoption. If the child  
15 cannot be placed for adoption, a report on the progress made  
16 by the child towards alternative permanency goals or  
17 placements, including, but not limited to, guardianship,  
18 long-term custody, long-term licensed custody, or independent  
19 living, must be submitted to the court. The report must be  
20 submitted to the court at least 72 hours before each scheduled  
21 judicial review hearing.

22 (d) In addition to or in lieu of any written statement  
23 provided to the court, the foster parent or legal custodian,  
24 or any preadoptive parent, shall be given the opportunity to  
25 address the court with any information relevant to the best  
26 interests of the child at any judicial review hearing.

27 (7) The court and any citizen review panel shall take  
28 into consideration the information contained in the social  
29 services study and investigation and all medical,  
30 psychological, and educational records that support the terms  
31 of the case plan; testimony by the social services agency, the

Bill No. CS for CS for SB 1280

Amendment No. \_\_\_\_ Barcode 394374

1 parent, the foster parent or legal custodian, the guardian ad  
2 litem if one has been appointed for the child, and any other  
3 person deemed appropriate; and any relevant and material  
4 evidence submitted to the court, including written and oral  
5 reports to the extent of their probative value. These reports  
6 and evidence may be received by the court in its effort to  
7 determine the action to be taken or recommended with regard to  
8 the child and may be relied upon to the extent of their  
9 probative value, even though not competent in an adjudicatory  
10 hearing. In its deliberations, the court and any citizen  
11 review panel shall seek to determine:

12 (a) If the parent was advised of the right to receive  
13 assistance from any person or social service agency in the  
14 preparation of the case plan.

15 (b) If the parent has been advised of the right to  
16 have counsel present at the judicial review hearing or citizen  
17 review panel review hearings. If not so advised, the court or  
18 citizen review panel shall advise the parent of this such  
19 right.

20 (c) If a guardian ad litem needs to be appointed for  
21 the child in a case in which a guardian ad litem has not  
22 previously been appointed or if there is a need to continue a  
23 guardian ad litem in a case in which a guardian ad litem has  
24 been appointed.

25 (d) The compliance or lack of compliance of all  
26 parties with applicable items of the case plan, including the  
27 parents' compliance with child support orders.

28 (e) The compliance or lack of compliance with a  
29 visitation contract between the parent and the social service  
30 agency for contact with the child, including the frequency,  
31 duration, and results of the parent-child visitation and the

Bill No. CS for CS for SB 1280

Amendment No. \_\_\_\_ Barcode 394374

1 reason for any noncompliance.

2 (f) The compliance or lack of compliance of the parent  
3 in meeting specified financial obligations pertaining to the  
4 care of the child, including the reason for failure to comply  
5 if such is the case.

6 (g) The appropriateness of the child's current  
7 placement, including whether the child is in a setting which  
8 is as family-like and as close to the parent's home as  
9 possible, consistent with the child's best interests and  
10 special needs, and including maintaining stability in the  
11 child's educational placement.

12 (h) A projected date likely for the child's return  
13 home or other permanent placement.

14 (i) When appropriate, the basis for the unwillingness  
15 or inability of the parent to become a party to a case plan.  
16 The court and the citizen review panel shall determine if the  
17 efforts of the social service agency to secure party  
18 participation in a case plan were sufficient.

19 (8)(a) Based upon the criteria set forth in subsection  
20 (7) and the recommendations ~~recommended order~~ of the citizen  
21 review panel, if any, the court shall determine whether or not  
22 the social service agency shall initiate proceedings to have a  
23 child declared a dependent child, return the child to the  
24 parent, continue the child in out-of-home care for a specified  
25 period of time, or initiate termination of parental rights  
26 proceedings for subsequent placement in an adoptive home.  
27 Modifications to the plan must be handled as prescribed in s.  
28 39.601. If the court finds that the prevention or  
29 reunification efforts of the department will allow the child  
30 to remain safely at home or be safely returned to the home,  
31 the court shall allow the child to remain in or return to the

Bill No. CS for CS for SB 1280

Amendment No. \_\_\_\_ Barcode 394374

1 home after making a specific finding of fact that the reasons  
2 for the creation of the case plan have been remedied to the  
3 extent that the child's safety, well-being, and physical,  
4 mental, and emotional health will not be endangered.

5 (b) The court shall return the child to the custody of  
6 the parents at any time it determines that the parents ~~they~~  
7 have substantially complied with the case plan, if the court  
8 is satisfied that reunification will not be detrimental to the  
9 child's safety, well-being, and physical, mental, and  
10 emotional health.

11 (c) If, in the opinion of the court, the social  
12 service agency has not complied with its obligations as  
13 specified in the written case plan, the court may find the  
14 social service agency in contempt, shall order the social  
15 service agency to submit its plans for compliance with the  
16 agreement, and shall require the social service agency to show  
17 why the child could not safely be returned to the home of the  
18 parents.

19 (d) The court may extend the time limitation of the  
20 case plan, or may modify the terms of the plan, based upon  
21 information provided by the social service agency, and the  
22 guardian ad litem, if one has been appointed, the parent or  
23 parents, and the foster parents or legal custodian, and any  
24 other competent information on record demonstrating the need  
25 for the amendment. If the court extends the time limitation of  
26 the case plan, the court must make specific findings  
27 concerning the frequency of past parent-child visitation, if  
28 any, and the court may authorize the expansion or restriction  
29 of future visitation. Modifications to the plan must be  
30 handled as prescribed in s. 39.601. Any extension of a case  
31 plan must comply with the time requirements and other

Bill No. CS for CS for SB 1280

Amendment No. \_\_\_\_ Barcode 394374

1 requirements specified by this chapter.

2 (e) If, at any judicial review, the court finds that  
3 the parents have failed to substantially comply with the case  
4 plan to the degree that further reunification efforts are  
5 without merit and not in the best interest of the child, it  
6 may authorize the filing of a petition for termination of  
7 parental rights, whether or not the time period as contained  
8 in the case plan for substantial compliance has elapsed.

9 (f) No later than 12 months after the date that the  
10 child was placed in shelter care, the court shall conduct a  
11 judicial review to plan for the child's permanency. At this  
12 hearing, if the child is not returned to the physical custody  
13 of the parents, the case plan may be extended with the same  
14 goals only if the court finds that the situation of the child  
15 is so extraordinary that the plan should be extended. The case  
16 plan must document steps the department is taking to find an  
17 adoptive parent or other permanent living arrangement for the  
18 child.

19 (g) The court may issue a protective order in  
20 assistance, or as a condition, of any other order made under  
21 this part. In addition to the requirements included in the  
22 case plan, the protective order may set forth requirements  
23 relating to reasonable conditions of behavior to be observed  
24 for a specified period of time by a person or agency who is  
25 before the court; and ~~the such~~ order may require ~~the any such~~  
26 person or agency to make periodic reports to the court  
27 containing ~~any such~~ information ~~as~~ the court prescribes in its  
28 ~~discretion may prescribe~~.

29 Section 55. Subsection (7) of section 120.80, Florida  
30 Statutes, is amended to read:

31 120.80 Exceptions and special requirements;

Bill No. CS for CS for SB 1280

Amendment No. \_\_\_\_ Barcode 394374

1 agencies.--

2 (7) DEPARTMENT OF CHILDREN AND FAMILY SERVICES AND  
 3 AGENCY FOR HEALTH CARE ADMINISTRATION.--Notwithstanding s.  
 4 120.57(1)(a), hearings conducted within the Department of  
 5 Children and Family Services and the Agency for Health Care  
 6 Administration in the execution of those social and economic  
 7 programs administered by the former Division of Family  
 8 Services of the former Department of Health and Rehabilitative  
 9 Services prior to the reorganization effected by chapter  
 10 75-48, Laws of Florida, need not be conducted by an  
 11 administrative law judge assigned by the division.

12 Section 56. Subsections (8), (15), and (16) of section  
 13 400.0255, Florida Statutes, are amended to read:

14 400.0255 Resident transfer or discharge; requirements  
 15 and procedures; hearings.--

16 (8) The notice required by subsection (7) must be in  
 17 writing and must contain all information required by state and  
 18 federal law, rules, or regulations applicable to Medicaid or  
 19 Medicare cases. The agency shall develop a standard document  
 20 to be used by all facilities licensed under this part for  
 21 purposes of notifying residents of a discharge or transfer.

22 ~~The Such~~ document must include a means for a resident to  
 23 request the local long-term care ombudsman council to review  
 24 the notice and request information about or assistance with  
 25 initiating a fair hearing with the ~~agency's department's~~  
 26 Office of ~~Fair Appeals~~ Hearings. In addition to any other  
 27 pertinent information included, the form shall specify the  
 28 reason allowed under federal or state law that the resident is  
 29 being discharged or transferred, with an explanation to  
 30 support this action. Further, the form shall state the  
 31 effective date of the discharge or transfer and the location

Bill No. CS for CS for SB 1280

Amendment No. \_\_\_\_ Barcode 394374

1 to which the resident is being discharged or transferred. The  
2 form shall clearly describe the resident's appeal rights and  
3 the procedures for filing an appeal, including the right to  
4 request the local ombudsman council to review the notice of  
5 discharge or transfer. A copy of the notice must be placed in  
6 the resident's clinical record, and a copy must be transmitted  
7 to the resident's legal guardian or representative and to the  
8 local ombudsman council within 5 business days after signature  
9 by the resident or resident designee.

10 (15)(a) The agency's department's Office of Fair  
11 ~~Appeals~~ Hearings shall conduct hearings under this section.  
12 The office shall notify the facility of a resident's request  
13 for a hearing.

14 (b) The agency department shall adopt<sup>7</sup> by rule<sup>7</sup>  
15 ~~establish~~ procedures to be used for fair hearings requested by  
16 residents. These procedures shall be equivalent to the  
17 procedures used for fair hearings for other Medicaid cases,  
18 chapter 65-2 ~~10-2~~, part VI, Florida Administrative Code. The  
19 burden of proof must be clear and convincing evidence. A  
20 hearing decision must be rendered within 90 days after receipt  
21 of the request for hearing.

22 (c) If the hearing decision is favorable to the  
23 resident who has been transferred or discharged, the resident  
24 must be readmitted to the facility's first available bed.

25 (d) The decision of the hearing officer ~~is shall be~~  
26 final. Any aggrieved party may appeal the decision to the  
27 district court of appeal in the appellate district where the  
28 facility is located. Appeal Review procedures shall be  
29 conducted in accordance with the Florida Rules of Appellate  
30 Procedure.

31 (16) The agency department may adopt rules ~~necessary~~



Bill No. CS for CS for SB 1280

Amendment No. \_\_\_\_ Barcode 394374

1 to administer this section.

2 Section 57. Subsection (13) is added to section  
3 408.15, Florida Statutes, to read:

4 408.15 Powers of the agency.--In addition to the  
5 powers granted to the agency elsewhere in this chapter, the  
6 agency is authorized to:

7 (13) Establish and conduct Medicaid fair hearings that  
8 are unrelated to eligibility determinations, complying with 42  
9 C.F.R. s. 431.200 and other applicable federal and state laws  
10 and regulations.

11 Section 58. Subsection (11) of section 409.91195,  
12 Florida Statutes, is amended to read:

13 409.91195 Medicaid Pharmaceutical and Therapeutics  
14 Committee.--There is created a Medicaid Pharmaceutical and  
15 Therapeutics Committee within the Agency for Health Care  
16 Administration for the purpose of developing a preferred drug  
17 formulary pursuant to 42 U.S.C. s. 1396r-8.

18 (11) Medicaid recipients may appeal agency preferred  
19 drug formulary decisions using the Medicaid fair hearing  
20 process administered by the Agency for Health Care  
21 Administration ~~Department of Children and Family Services.~~

22 Section 59. Paragraph (b) of subsection (4) of section  
23 409.912, Florida Statutes, is amended to read:

24 409.912 Cost-effective purchasing of health care.--The  
25 agency shall purchase goods and services for Medicaid  
26 recipients in the most cost-effective manner consistent with  
27 the delivery of quality medical care. The agency shall  
28 maximize the use of prepaid per capita and prepaid aggregate  
29 fixed-sum basis services when appropriate and other  
30 alternative service delivery and reimbursement methodologies,  
31 including competitive bidding pursuant to s. 287.057, designed

Bill No. CS for CS for SB 1280

Amendment No. \_\_\_\_ Barcode 394374

1 to facilitate the cost-effective purchase of a case-managed  
2 continuum of care. The agency shall also require providers to  
3 minimize the exposure of recipients to the need for acute  
4 inpatient, custodial, and other institutional care and the  
5 inappropriate or unnecessary use of high-cost services. The  
6 agency may establish prior authorization requirements for  
7 certain populations of Medicaid beneficiaries, certain drug  
8 classes, or particular drugs to prevent fraud, abuse, overuse,  
9 and possible dangerous drug interactions. The Pharmaceutical  
10 and Therapeutics Committee shall make recommendations to the  
11 agency on drugs for which prior authorization is required. The  
12 agency shall inform the Pharmaceutical and Therapeutics  
13 Committee of its decisions regarding drugs subject to prior  
14 authorization.

15 (4) The agency may contract with:

16 (b) An entity that is providing comprehensive  
17 behavioral health care services to certain Medicaid recipients  
18 through a capitated, prepaid arrangement under ~~pursuant to~~ the  
19 federal waiver provided for by s. 409.905(5). ~~The Such an~~  
20 entity must be licensed under chapter 624, chapter 636, or  
21 chapter 641 and must possess the clinical systems and  
22 operational competence to manage risk and provide  
23 comprehensive behavioral health care to Medicaid recipients.  
24 As used in this paragraph, the term "comprehensive behavioral  
25 health care services" means covered mental health and  
26 substance abuse treatment services that are available to  
27 Medicaid recipients. The secretary of the Department of  
28 Children and Family Services shall approve provisions of  
29 procurements related to children in the department's care or  
30 custody before ~~prior to~~ enrolling the ~~such~~ children in a  
31 prepaid behavioral health plan. Any contract awarded under

Bill No. CS for CS for SB 1280

Amendment No. \_\_\_\_ Barcode 394374

1 this paragraph must be competitively procured. In developing  
2 the behavioral health care prepaid plan procurement document,  
3 the agency shall ensure that the procurement document requires  
4 the contractor to develop and implement a plan to ensure  
5 compliance with s. 394.4574 related to services provided to  
6 residents of licensed assisted living facilities that hold a  
7 limited mental health license. The agency shall seek federal  
8 approval to contract with a single entity meeting these  
9 requirements to provide comprehensive behavioral health care  
10 services to all Medicaid recipients in an AHCA area. Each  
11 entity must offer sufficient choice of providers in its  
12 network to ensure recipient access to care and the opportunity  
13 to select a provider with whom they are satisfied. The network  
14 shall include all public mental health hospitals. To ensure  
15 unimpaired access to behavioral health care services by  
16 Medicaid recipients, all contracts issued under ~~pursuant to~~  
17 this paragraph shall require 80 percent of the capitation paid  
18 to the managed care plan, including health maintenance  
19 organizations, to be expended for the provision of behavioral  
20 health care services. In the event the managed care plan  
21 expends less than 80 percent of the capitation paid under  
22 ~~pursuant to~~ this paragraph for the provision of behavioral  
23 health care services, the difference shall be returned to the  
24 agency. The agency shall provide the managed care plan with a  
25 certification letter indicating the amount of capitation paid  
26 during each calendar year for the provision of behavioral  
27 health care services under ~~pursuant to~~ this section. The  
28 agency may reimburse for substance abuse treatment services on  
29 a fee-for-service basis until the agency finds that adequate  
30 funds are available for capitated, prepaid arrangements.

31 1. By January 1, 2001, the agency shall modify the

Bill No. CS for CS for SB 1280

Amendment No. \_\_\_\_ Barcode 394374

1 contracts with the entities providing comprehensive inpatient  
2 and outpatient mental health care services to Medicaid  
3 recipients in Hillsborough, Highlands, Hardee, Manatee, and  
4 Polk Counties, to include substance abuse treatment services.

5         2. By July 1, 2003, the agency and the Department of  
6 Children and Family Services shall execute a written agreement  
7 that requires collaboration and joint development of all  
8 policy, budgets, procurement documents, contracts, and  
9 monitoring plans that have an impact on the state and Medicaid  
10 community mental health and targeted case management programs.

11         3. By July 1, 2006, the agency and the Department of  
12 Children and Family Services shall contract with managed care  
13 entities in each AHCA area except area 6 or arrange to provide  
14 comprehensive inpatient and outpatient mental health and  
15 substance abuse services through capitated prepaid  
16 arrangements to all Medicaid recipients who are eligible to  
17 participate in such plans under federal law and regulation. In  
18 AHCA areas where eligible individuals number less than  
19 150,000, the agency shall contract with a single managed care  
20 plan. The agency may contract with more than one plan in AHCA  
21 areas where the eligible population exceeds 150,000. Contracts  
22 awarded pursuant to this section shall be competitively  
23 procured. Both for-profit and not-for-profit corporations  
24 shall be eligible to compete.

25         4. By October 1, 2003, the agency and the department  
26 shall submit a plan to the Governor, the President of the  
27 Senate, and the Speaker of the House of Representatives which  
28 provides for the full implementation of capitated prepaid  
29 behavioral health care in all areas of the state. The plan  
30 shall include provisions which ensure that children and  
31 families receiving foster care and other related services are

Bill No. CS for CS for SB 1280

Amendment No. \_\_\_\_ Barcode 394374

1 appropriately served and that these services assist the  
2 community-based care lead agencies in meeting the goals and  
3 outcomes of the child welfare system. The plan will be  
4 developed with the participation of community-based lead  
5 agencies, community alliances, sheriffs, and community  
6 providers serving dependent children.

7 a. Implementation shall begin in 2003 in those AHCA  
8 areas of the state where the agency is able to establish  
9 sufficient capitation rates.

10 b. If the agency determines that the proposed  
11 capitation rate in any area is insufficient to provide  
12 appropriate services, the agency may adjust the capitation  
13 rate to ensure that care will be available. The agency and the  
14 department may use existing general revenue to address any  
15 additional required match but may not over-obligate existing  
16 funds on an annualized basis.

17 c. Subject to any limitations provided for in the  
18 General Appropriations Act, the agency, in compliance with  
19 appropriate federal authorization, shall develop policies and  
20 procedures that allow for certification of local and state  
21 funds.

22 5. Children residing in a statewide inpatient  
23 psychiatric program, or in a Department of Juvenile Justice or  
24 a Department of Children and Family Services residential  
25 program approved as a Medicaid behavioral health overlay  
26 services provider ~~may shall~~ not be included in a behavioral  
27 health care prepaid health plan under ~~pursuant to~~ this  
28 paragraph.

29 6. In converting to a prepaid system of delivery, the  
30 agency shall in its procurement document require an entity  
31 providing comprehensive behavioral health care services to

Bill No. CS for CS for SB 1280

Amendment No. \_\_\_\_ Barcode 394374

1 prevent the displacement of indigent care patients by  
 2 enrollees in the Medicaid prepaid health plan providing  
 3 behavioral health care services from facilities receiving  
 4 state funding to provide indigent behavioral health care, to  
 5 facilities licensed under chapter 395 which do not receive  
 6 state funding for indigent behavioral health care, or  
 7 reimburse the unsubsidized facility for the cost of behavioral  
 8 health care provided to the displaced indigent care patient.

9           7. Traditional community mental health and  
 10 substance-abuse treatment providers under contract with the  
 11 Department of Children and Family Services under ~~pursuant to~~  
 12 part IV of chapter 394, child welfare providers under contract  
 13 with the Department of Children and Family Services, and  
 14 inpatient mental health providers licensed under ~~pursuant to~~  
 15 chapter 395 must receive contracts to provide services ~~be~~  
 16 ~~offered an opportunity to accept or decline a contract to~~  
 17 ~~participate~~ in any provider network for prepaid behavioral  
 18 health services.

19           Section 60. Subsection (15) of section 415.102,  
 20 Florida Statutes, is amended to read:

21           415.102 Definitions of terms used in ss.

22 415.101-415.113.--As used in ss. 415.101-415.113, the term:

23           (15) "Neglect" means the failure or omission on the  
 24 part of the caregiver or vulnerable adult to provide the care,  
 25 supervision, and services necessary to maintain the physical  
 26 and mental health of the vulnerable adult, including, but not  
 27 limited to, food, clothing, medicine, shelter, supervision,  
 28 and medical services, that a prudent person would consider  
 29 essential for the well-being of a vulnerable adult. The term  
 30 "neglect" also means the failure of a caregiver or vulnerable  
 31 adult to make a reasonable effort to protect a vulnerable

Bill No. CS for CS for SB 1280

Amendment No. \_\_\_\_ Barcode 394374

1 adult from abuse, neglect, or exploitation by others.  
 2 "Neglect" is repeated conduct or a single incident of  
 3 carelessness which produces or could reasonably be expected to  
 4 result in serious physical or psychological injury or a  
 5 substantial risk of death.

6 Section 61. Subsection (5) of section 415.1113,  
 7 Florida Statutes, is amended and redesignated as subsection  
 8 (6), present subsections (6), (7), (8), (9), and (10) are  
 9 redesignated as subsections (7), (8), (9), (10), and (11),  
 10 respectively, and a new subsection (5) is added to that  
 11 section to read:

12 415.1113 Administrative fines for false report of  
 13 abuse, neglect, or exploitation of a vulnerable adult.--

14 (5) A person alleged to have filed a false report may  
 15 be represented by legal counsel at the administrative hearing.  
 16 The notice of intent to impose the administrative fine set  
 17 forth in subsection (3) must include notification of the right  
 18 to be represented by legal counsel.

19 ~~(6)(5)~~ At the administrative hearing, the department  
 20 must prove by clear and convincing evidence that the person  
 21 knowingly and willfully filed a false report with the central  
 22 abuse hotline. ~~The person has the right to be represented by~~  
 23 ~~legal counsel at the hearing.~~

24 Section 62. Subsections (2) and (5) of section  
 25 420.622, Florida Statutes, are amended to read:

26 420.622 State Office on Homelessness; Council on  
 27 Homelessness.--

28 (2) The Council on Homelessness is created to consist  
 29 of a 15-member council of public and private agency  
 30 representatives who shall develop policy and advise the State  
 31 Office on Homelessness. The council members shall be: the

Bill No. CS for CS for SB 1280

Amendment No. \_\_\_\_ Barcode 394374

1 Secretary of Children and Family Services, or his or her  
2 designee; the Secretary of Community Affairs, or his or her  
3 designee; the Secretary of Health, or his or her designee; the  
4 Executive Director of Veterans' Affairs, or his or her  
5 designee; the Secretary of Corrections, or his or her  
6 designee; the Director of Workforce Florida, Inc., or his or  
7 her designee; one representative of the Florida Association of  
8 Counties; one representative of the Florida ~~Coalition for~~  
9 Supportive Housing Coalition; the Executive Director of the  
10 Florida Housing Finance Corporation, or his or her designee;  
11 one representative of the Florida Coalition for the Homeless;  
12 one representative of the Florida State Rural Development  
13 Council; and four members appointed by the Governor. The  
14 council members shall be volunteer, nonpaid persons and shall  
15 be reimbursed for travel expenses only. The appointed members  
16 of the council shall serve staggered 2-year terms, and the  
17 council shall meet at least four times per year. The  
18 importance of minority, gender, and geographic representation  
19 must be considered when appointing members to the council.

20 (5) The State Office on Homelessness, with the  
21 concurrence of the Council on Homelessness, may administer  
22 moneys appropriated to it to provide homeless housing  
23 assistance grants annually to lead agencies for local homeless  
24 assistance continuum of care, as recognized by the State  
25 Office on Homelessness, to construct or rehabilitate  
26 transitional or permanent housing units for homeless persons.  
27 These moneys shall consist of any sums that the state may  
28 appropriate, as well as money received from donations, gifts,  
29 bequests, or otherwise from any public or private source,  
30 which money is intended to construct or rehabilitate  
31 transitional or permanent housing units for homeless persons.



Bill No. CS for CS for SB 1280

Amendment No. \_\_\_\_ Barcode 394374

1 (a) Grant applicants shall be ranked competitively.  
2 Preference must be given to applicants who leverage additional  
3 private funds and public funds, particularly federal funds  
4 designated for the construction and rehabilitation of  
5 transitional or permanent housing for homeless persons, who  
6 build or rehabilitate the greatest number of units, and who  
7 build or rehabilitate in catchment areas having the greatest  
8 need for housing for the homeless relative to the population  
9 of the catchment area.

10 (b) Funding for any particular project may not exceed  
11 \$750,000.

12 (c) Construction or rehabilitation activities, and  
13 associated and related costs, to which funds available under  
14 this subsection may be applied include, but are not limited  
15 to:

- 16 1. Site preparation and demolition;  
17 2. Professional fees of architects, surveyors, or  
18 engineers;  
19 3. Local government building permits and impact fees;  
20 4. Utilities and special district fees;  
21 5. Labor, materials, and tools; and  
22 6. Other costs associated with the construction or  
23 rehabilitation of the building.

24  
25 Any construction or rehabilitation activity or cost eligible  
26 for funding under this subsection may be funded if the  
27 activity or cost cannot be contributed, absorbed, or waived.

28 ~~(d)~~(e) Projects must reserve, for a minimum of 10  
29 years, the number of units constructed or rehabilitated  
30 through homeless housing assistance grant funding to serve  
31 persons who are homeless at the time they assume tenancy.

Bill No. CS for CS for SB 1280

Amendment No. \_\_\_\_ Barcode 394374

1           ~~(e)(d)~~ No more than two grants may be awarded annually  
 2 in any given local homeless assistance continuum of care  
 3 catchment area.

4           ~~(f)(e)~~ A project may not be funded which is not  
 5 included in the local homeless assistance continuum of care  
 6 plan, as recognized by the State Office on Homelessness, for  
 7 the catchment area in which the project is located.

8           ~~(g)(f)~~ The maximum percentage of funds that the State  
 9 Office on Homelessness and each applicant may spend on  
 10 administrative costs is 5 percent.

11           Section 63. Subsection (4) of section 420.623, Florida  
 12 Statutes, is amended to read:

13           420.623 Local coalitions for the homeless.--

14           (4) ANNUAL REPORTS.--The department shall submit to  
 15 the Governor, the Speaker of the House of Representatives, and  
 16 the President of the Senate, by December 31 ~~June 30~~, an annual  
 17 report consisting of a compilation of data collected by local  
 18 coalitions, progress made in the development and  
 19 implementation of local homeless assistance continuums of care  
 20 plans in each district, local spending plans, programs and  
 21 resources available at the local level, and recommendations  
 22 for programs and funding.

23           Section 64. Subsection (5) of section 420.625, Florida  
 24 Statutes, is amended to read:

25           420.625 Grant-in-aid program.--

26           (5) SPENDING PLANS.--The department shall develop  
 27 guidelines for the development of spending plans and for the  
 28 evaluation and approval by district administrators of spending  
 29 plans, based upon such factors as:

30           (a) The demonstrated level of need for the program.

31           (b) The demonstrated ability of the local agency or

Bill No. CS for CS for SB 1280

Amendment No. \_\_\_\_ Barcode 394374

1 agencies seeking assistance to deliver the services and to  
 2 assure that identified needs will be met.

3 (c) The ability of the local agency or agencies  
 4 seeking assistance to deliver a wide range of services as  
 5 enumerated in subsection (3).

6 (d) The adequacy and reasonableness of proposed  
 7 budgets and planned expenditures, and the demonstrated  
 8 capacity of the local agency or agencies to administer the  
 9 funds sought.

10 (e) A statement from the local coalition for the  
 11 homeless as to the steps to be taken to assure coordination  
 12 and integration of services in the district to avoid  
 13 unnecessary duplication and costs.

14 (f) A statement from the designated lead agency of the  
 15 homeless assistance continuum of care catchment area in which  
 16 the services proposed will be provided, assuring the  
 17 department that the services are contained in, and consistent  
 18 with, the coalition's written plan for its continuum of care.

19 ~~(g)(f)~~ Assurances by the local coalition for the  
 20 homeless that alternative funding strategies for meeting needs  
 21 through the reallocation of existing resources, utilization of  
 22 volunteers, and local government or private agency funding  
 23 have been explored.

24 ~~(h)(g)~~ The existence of an evaluation component  
 25 designed to measure program outcomes and determine the overall  
 26 effectiveness of the local programs for the homeless for which  
 27 funding is sought.

28 Section 65. Subsection (3) of section 39.304, Florida  
 29 Statutes, is amended to read:

30 39.304 Photographs, medical examinations, X rays, and  
 31 medical treatment of abused, abandoned, or neglected child.--

Bill No. CS for CS for SB 1280

Amendment No. \_\_\_\_ Barcode 394374

1           (3) Any facility licensed under chapter 395 shall  
2 provide to the department, its agent, a law enforcement  
3 agency, or a child protection team that contracts with the  
4 department any photograph or report on examinations made or X  
5 rays taken under ~~pursuant to~~ this section, or copies thereof,  
6 for the purpose of investigation or assessment of cases of  
7 abuse, abandonment, neglect, or exploitation of children.

8           Section 66. Subsections (3), (4), (5), and (6) of  
9 section 61.21, Florida Statutes, are amended to read:

10           61.21 Parenting course authorized; fees; required  
11 attendance authorized; contempt.--

12           (3) Each course provider offering a parenting course  
13 pursuant to this section must be approved by the Department of  
14 Children and Family Services. The provider and course must  
15 comply with this section and the rules developed under this  
16 section.

17           (a) The Department of Children and Family Services  
18 shall provide each judicial circuit with a statewide list of  
19 approved course providers and sites at which the parent  
20 education and family stabilization course may be completed.  
21 Each judicial circuit must make information regarding all  
22 approved course providers available to all parents.

23           (b) Parent education and family stabilization course  
24 providers may charge a reasonable fee for each course  
25 participant. The Department of Children and Family Services  
26 shall include on the list of approved course providers and  
27 sites for each circuit at least one site in that circuit where  
28 the parent education and family stabilization course may be  
29 completed on a sliding fee scale, if available.

30           (c) The Department of Children and Family Services  
31 shall include on the list of approved course providers,

Bill No. CS for CS for SB 1280

Amendment No. \_\_\_\_ Barcode 394374

1 without limitation as to the area of the state for which the  
2 course is approved, a minimum of one statewide approved course  
3 to be provided through the Internet and one statewide approved  
4 course to be provided through correspondence. The purpose of  
5 the Internet and correspondence courses is to ensure that the  
6 parent education and stabilization course is available in the  
7 home county of each state resident and to those out-of-state  
8 persons subject to this section.

9       (d) The Department of Children and Family Services may  
10 remove a provider from the list of approved course providers  
11 for noncompliance with the requirements of this section or the  
12 rules adopted under this section.

13       (e) The Department of Children and Family Services  
14 shall adopt rules to implement subsections (2) and (3).

15       ~~(4)(3)~~ All parties to a dissolution of marriage  
16 proceeding with minor children or a paternity action which  
17 involves issues of parental responsibility shall be required  
18 to complete the Parent Education and Family Stabilization  
19 Course prior to the entry by the court of a final judgment.  
20 The court may excuse a party from attending the parenting  
21 course for good cause.

22       ~~(5)(4)~~ All parties required to complete a parenting  
23 course under this section shall begin the course as  
24 expeditiously as possible after filing for dissolution of  
25 marriage and shall file proof of compliance with the court  
26 prior to the entry of the final judgment.

27       ~~(6)(5)~~ All parties to a modification of a final  
28 judgment involving shared parental responsibilities, custody,  
29 or visitation may be required to complete a court-approved  
30 parenting course prior to the entry of an order modifying the  
31 final judgment.

Bill No. CS for CS for SB 1280

Amendment No. \_\_\_\_ Barcode 394374

1           ~~(6) The department shall provide each judicial circuit~~  
 2 ~~with a list of approved course providers and sites at which~~  
 3 ~~the parent education and family stabilization course required~~  
 4 ~~by this section may be completed. The department shall also~~  
 5 ~~include on the list of course providers and sites at least one~~  
 6 ~~site in each circuit at which the parent education and family~~  
 7 ~~stabilization course may be completed on a sliding fee scale,~~  
 8 ~~if available.~~

9           Section 67. Paragraphs (a) and (c) of subsection (2)  
 10 of section 839.13, Florida Statutes, are amended to read:

11           839.13 Falsifying records.--

12           (2)(a) Any person who knowingly falsifies, alters,  
 13 destroys, defaces, overwrites, removes, or discards by  
 14 ~~altering, destroying, defacing, overwriting, removing, or~~  
 15 ~~discarding~~ an official record relating to an individual in the  
 16 care and custody of a state agency, which act has the  
 17 potential to detrimentally affect the health, safety, or  
 18 welfare of that individual, commits a felony of the third  
 19 degree, punishable as provided in s. 775.082, s. 775.083, or  
 20 s. 775.084. For the purposes of this paragraph, the term "care  
 21 and custody" includes, but is not limited to, a child abuse  
 22 protective investigation, protective supervision, foster care  
 23 and related services, or a protective investigation or  
 24 protective supervision of a vulnerable adult, as defined in  
 25 chapter 39, chapter 409, or chapter 415.

26           (c) Any person who knowingly falsifies, alters,  
 27 destroys, defaces, overwrites, removes, or discards by  
 28 ~~altering, destroying, defacing, overwriting, removing, or~~  
 29 ~~discarding~~ records of the Department of Children and Family  
 30 Services or its contract provider with the intent to conceal a  
 31 fact material to a child abuse protective investigation,

Bill No. CS for CS for SB 1280

Amendment No. \_\_\_\_ Barcode 394374

1 protective supervision, foster care and related services, or a  
2 protective investigation or protective supervision of a  
3 vulnerable adult, as defined in chapter 39, chapter 409, or  
4 chapter 415, commits a felony of the third degree, punishable  
5 as provided in s. 775.082, s. 775.083, or s. 775.084. Nothing  
6 in this paragraph prohibits prosecution for a violation of  
7 paragraph (a) or paragraph (b) involving records described in  
8 this paragraph.

9 Section 68. Subsection (6) of section 410.604, Florida  
10 Statutes, is repealed.

11 Section 69. Except as otherwise expressly provided in  
12 this act and except for this section, which shall take effect  
13 upon becoming a law, this act shall take effect July 1, 2004.

14  
15

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

17 And the title is amended as follows:

18 On page 6, lines 19 and 20, delete those lines

19

20 and insert:

21 the changes made by the act; amending s.  
22 39.202, F.S., relating to confidentiality  
23 requirements for reports and records in cases  
24 of child abuse or neglect; providing that staff  
25 members of a child advocacy center who are  
26 providing the services of the center to the  
27 child may have access to the records; amending  
28 s. 39.301, F.S.; requiring a risk assessment of  
29 the child and family to be commenced  
30 immediately upon receipt of the abuse report;  
31 providing for a continuous review of the risk

Bill No. CS for CS for SB 1280

Amendment No. \_\_\_\_ Barcode 394374

1 assessment; providing for the development and  
2 implementation of a safety plan, a case plan,  
3 or both; amending s. 39.701, F.S.; providing  
4 for a review of the status of the child by the  
5 circuit court or a citizen review panel;  
6 authorizing reviews by a citizen review panel  
7 in lieu of court hearings; requiring the court  
8 to specifically find if the department has  
9 direct knowledge of the care the child is  
10 receiving; providing for recommendations from  
11 the citizen review panels in place of  
12 recommended orders; amending s. 120.80, F.S.;  
13 exempting hearings of the Agency for Health  
14 Care Administration from the requirement of  
15 being conducted by an administrative law judge;  
16 amending s. 400.0255, F.S.; providing for  
17 certain hearings relating to resident transfer  
18 or discharge to be conducted by the agency's  
19 Office of Fair Hearings; amending s. 408.15,  
20 F.S.; authorizing the agency to establish and  
21 conduct Medicaid fair hearings; amending s.  
22 409.91195, F.S.; authorizing a Medicaid  
23 recipient to appeal a decision concerning the  
24 preferred drug formulary through the agency;  
25 amending s. 409.912, F.S.; requiring the  
26 department to enter into contracts with certain  
27 providers for the providers to supply services  
28 in any provider network for prepaid behavioral  
29 health services; amending s. 415.102, F.S.;  
30 adding self-neglect to the definition of the  
31 term "neglect" for purposes of adult protective



Bill No. CS for CS for SB 1280

Amendment No. \_\_\_\_ Barcode 394374

1 services; amending s. 415.1113, F.S.; requiring  
2 notification of the right to be represented by  
3 legal counsel at an administrative hearing  
4 regarding an allegation of filing a false  
5 report; amending s. 420.622, F.S.;  
6 redesignating the Florida Coalition for  
7 Supportive Housing; providing that grant moneys  
8 for homeless persons may be used for certain  
9 eligible construction and rehabilitation costs;  
10 amending s. 420.623, F.S.; changing the date  
11 for the department to submit an annual report  
12 to the Governor and Legislature; amending s.  
13 420.625, F.S.; requiring that spending plans  
14 for funds from the grant-in-aid program include  
15 assurances to the department that the services  
16 are consistent with the continuum-of-care plan;  
17 amending s. 39.304, F.S.; adding a law  
18 enforcement agency to the groups to which a  
19 health care facility licensed under ch. 395,  
20 F.S., must supply specified items during an  
21 investigation of abuse, abandonment, or neglect  
22 of a child; amending s. 61.21, F.S.; requiring  
23 the Department of Children and Family Services  
24 to approve parenting courses; establishing  
25 requirements relating to the provision of  
26 approved parenting courses; amending s. 839.13,  
27 F.S.; providing that a person who knowingly  
28 falsifies, alters, destroys, defaces,  
29 overwrites, removes, or discards a record of  
30 the department or its contract provider or a  
31 record relating to an individual in the care

Bill No. CS for CS for SB 1280

Amendment No. \_\_\_\_ Barcode 394374

1           and custody of the state commits a felony of  
2           the third degree; repealing s. 410.604(6),  
3           F.S., relating to fees charged by the  
4           department and its providers for services  
5           delivered to a disabled adult whose income is  
6           above the eligibility standard for  
7           institutional care; providing effective dates.

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