SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 1762

SPONSOR: Health, Aging, and Long-Term Care Committee and Senator Saunders

SUBJECT: Trauma Care

DATE: March 10, 2004 REVISED: 03/16/04

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Munroe	Wilson	HC	Favorable/CS
2.	Dodson	Skelton	HP	Fav/2 Amendments
3.			AHS	
4.			AP	
5.				
6.				

I. Summary:

The bill makes various technical changes and deletes obsolete language and dates from part II, chapter 395, F.S., relating to trauma care. Hospitals and trauma centers are required to report specified information on persons who have moderate-to-severe brain or spinal cord injuries to the brain and spinal cord central registry in the Department of Health (DOH). Legislative findings conferring duties on DOH relating to trauma care are revised. Definitions for trauma centers are revised to conform to DOH's approval process to verify that the trauma centers have met specified standards.

The Department of Health is required to adopt by rule the procedures and process for notification, duration, and explanation of the termination of trauma services. Obsolete language relating to the reimbursement of trauma centers which specifies a funding formula that has never been implemented is deleted. In lieu of the funding formula, all provisional trauma centers and trauma centers shall be considered eligible to receive state funding when state funds are specifically appropriated for trauma centers.

The bill requires the boundaries of trauma regions administered by the Department of Health to be coterminous with the boundaries of the regional domestic security task forces established within the Florida Department of Law Enforcement. Exceptions are provided for the delivery of trauma services by or in coordination with a trauma agency established before July 1, 2004, which may continue in accordance with public and private agreements and operational procedures entered into as provided in s. 395.401, F.S. The department is granted rulemaking authority to enforce part II, chapter 395, F.S.

This bill substantially amends sections 381.74, 381.745, 395.40, 395.4001, 395.401, 395.4015, 395.402, 395.4025, 395.403, 395.4035, 395.404, and 395.405, Florida Statutes.

II. Present Situation:

Trauma Care

Part II, chapter 395, F.S., governs trauma services and trauma center operations in Florida. There are twenty state-approved trauma centers in the state. DOH regulates trauma centers and has developed minimum standards for trauma centers based on national trauma standards. The department also has statutory authority to develop an inclusive trauma system to meet the needs of all injured trauma victims, which is accomplished through the development of a state trauma system plan and coordination with local trauma agencies. There are four county and multi-county local trauma agencies approved by DOH. In areas where local or regional agencies have not been formed, DOH is responsible for developing regional trauma system plans.

Section 395.4001, F.S., defines various types of trauma centers. A “Level I trauma center" is defined to mean a trauma center that:

- Has formal research and education programs for the enhancement of trauma care and is determined by the department to be in substantial compliance with Level I trauma center and pediatric trauma referral center standards.
- Serves as a resource facility to Level II trauma centers, pediatric trauma referral centers, and general hospitals through shared outreach, education, and quality improvement activities.
- Participates in an inclusive system of trauma care, including providing leadership, system evaluation, and quality improvement activities.

A "Level II trauma center" is defined to mean a trauma center that:

- Is determined by the department to be in substantial compliance with Level II trauma center standards.
- Serves as a resource facility to general hospitals through shared outreach, education, and quality improvement activities.
- Participates in an inclusive system of trauma care.

A “Pediatric trauma referral center” is defined to mean a hospital that is determined by the department to be in substantial compliance with pediatric trauma referral center standards as established by rule of the department.

Part II, chapter 395, F. S., places legislative emphasis on the need for an inclusive trauma system which provides Floridians and visitors timely access to trauma care. Trauma standards and procedures are based on the “golden hour” principle, which is the optimal timeframe for the delivery of services to trauma victims. DOH has the primary responsibility for the oversight, planning, monitoring and establishment of a statewide inclusive trauma system. There are six Level I trauma centers that are also pediatric trauma centers, thirteen Level II trauma centers, of which five are also pediatric centers, and one pediatric trauma center. Nineteen trauma service areas have been designated in Florida to facilitate trauma planning.

There are provisions of part II, chapter 395, F.S., that are outdated. In some cases, dates have passed and are no longer relevant. Terminology regarding verification of trauma centers is no longer consistent with DOH's approval of trauma centers.

For the past three years the funding for trauma care beyond the normal reimbursements from Medicaid, other third party payers and private payers has come from the Medicaid program in the form of special nonrecurring Medicaid payments under the Upper Payment Limit Program. In the last three years $44 million in Medicaid payments have been made for trauma care through the Upper Payment Limit Program. Medicaid also estimates they paid $97.7 million during 2002 in fee-for-service payments for trauma-related diagnoses. Prior to 1998, there was no specific funding for trauma centers. Earlier efforts in 1990-91 were stymied because of a budgetary shortfall and the resources appropriated were cut from the state budget. The elaborate funding formula based on the provision of charity care by trauma centers outlined in s. 395.403, F.S, has not been implemented.

Brain and Spinal Cord Injury

The Department of Health administers the brain and spinal cord injury program that provides services to individuals who have moderate-to-severe brain or spinal cord injuries. The program gives eligible persons the opportunity to obtain necessary rehabilitative services, enabling such persons to be referred to a vocational rehabilitation program or to return to an appropriate level of functioning in their community. Under s. 381.74, F.S., the department maintains a central registry of persons who have moderate-to-severe brain or spinal cord injuries. Every public or private health agency, public or private social agency, and attending physician must report to the department within 5 days after identification or diagnosis of any person who has a moderate-to-severe brain or spinal cord injury. The consent of such person is not required and the report must contain the name, age, residence, and type of disability of the individual, and any additional information that the department deems necessary. During fiscal year 2002-2003, the brain and spinal cord injury central registry received 3,175 referrals. Eighty-nine percent of the 3,175 referrals were received from state-designated trauma centers and designated rehabilitation facilities.

Notwithstanding s. 381.74, F.S., each trauma center and acute care hospital must submit severe disability and head-injury registry data to DOH as provided by rule. Each trauma center and acute care hospital must continue to provide initial notification of persons who have severe disabilities and head injuries to DOH within timeframes set forth in chapter 413, F.S.[1]

[1] The Division of Vocational Rehabilitation within the Department of Labor and Employment Security was established to assist persons with physical or mental impairment to gain employment and its statutory authority was at part II, ch. 413, F.S., and ch. 38J, F.A.C. The Office of Disability Determinations was also housed in the Division. This is a federally funded program which is responsible for determining medical eligibility for Social Security Disability Insurance and Supplemental Security Income Benefits. The office at that time made appropriate referrals to the Division of Vocational Rehabilitation and programs within DOH to assist the claimant in obtaining the necessary health care and to regain economic employment security. The Brain and Spinal Cord Injury Program and the Office of Disability Determinations were transferred to the Department of Health in 1999 and is now codified in ch. 381, F.S.

Domestic Security/Counter-Terrorism

After the September 11, 2001 terrorist attack, federal, state and local governments began to review and revise laws relating to domestic security. During the 2001 Special Session "C", the Florida Legislature enacted a number of laws dealing with security, including chapter 2001-365, Laws of Florida, to direct the Department of Law Enforcement to coordinate and direct the law enforcement, initial emergency, and other initial responses to acts of terrorism within or affecting this state. The Department of Law Enforcement must work closely with the Division of Emergency Management; other federal, state, and local law enforcement agencies; fire and rescue agencies; first-responder agencies; and others involved in preparation against and responses to such terrorism. The Department of Law Enforcement must designate a Chief of Domestic Security Initiatives. The legislation established the duties and responsibilities of the chief, which include, but are not limited to, coordinating the department's ongoing assessment of Florida's vulnerability to, and ability to detect and respond to, acts of terrorism; conducting specified security assessments; making recommendations for minimum security standards, funding and training requirements and other security matters; and developing best practices for safety and security.

Chapter 2001-365, L.O.F., also required the Department of Law Enforcement to establish a regional domestic security task force in each of the department's operational regions to serve in an advisory capacity to the Chief of Domestic Security Initiatives.[2] Goals and objectives of each task force include, but are not limited to, coordinating efforts, training, and the collection and dissemination of investigative and intelligence information relevant to countering terrorism; identifying appropriate equipment and training needs, curricula, and materials relevant to responding to acts of terrorism or incidents involving real or hoax weapons of mass destruction; and ensuring that there are appropriate investigations and responses to hate-driven acts against ethnic groups that may have been targeted as a result of acts of terrorism.

III. Effect of Proposed Changes:

Section 1. Amends s. 381.74, F.S., relating to a central registry of persons who have moderate-to-severe brain or spinal cord injuries, to require hospitals and trauma centers to report specified information to the registry. This conforms to requirements in s. 395.404, F.S., as amended by section 10 of the bill, for hospitals and trauma centers to report to the registry.

Section 2. Amends s. 381.745, F.S., to define "department" to mean the Department of Health for purposes of the "Charlie Mack Overstreet Brain and Spinal Cord Injuries Act," that is codified at ss. 381.739 – 381.79, F.S.

Section 3. Amends s. 395.40, F.S., relating to legislative findings for trauma care, to replace the authority for DOH to develop criteria for mandatory consultation on the care of trauma victims with an authorization for DOH to develop criteria for consultation between acute care hospitals and trauma centers on the care of trauma victims. The transfer of a trauma patient will be accomplished through hospital partnerships and written agreements.

[2] See s. 943.0312, F.S.

The authority for DOH to require the medical director of an emergency medical services provider to have medical accountability for a trauma victim during an interfacility transfer is deleted. The department will continue to regulate the responsibility of a medical director during an interfacility transfer of a trauma victim under chapter 401, F.S., relating to emergency medical services.

Section 4. Amends s. 395.4001, F.S., relating to definitions for trauma care, to delete the definition of "charity care" or "uncompensated care." The definitions of "Level I trauma center," "Level II trauma center," and "Pediatric trauma referral center" are updated to conform to DOH's process for verifying that such trauma centers have met specified requirements to operate as a trauma center and have been approved by the department. References to "state-approved" trauma centers and the verification process are deleted. "Provisional trauma center" is defined to mean a hospital that has been verified by DOH to be in substantial compliance with the requirements for verification under s. 395.4025, F.S., and has been approved by DOH to operate as a provisional Level I trauma center, Level II trauma center, or pediatric trauma center. Definitions for "state-approved trauma center" and "state-sponsored trauma center" are eliminated. To conform to DOH's approval process for trauma centers, the definition for "trauma center" is revised to mean a hospital that has been verified by DOH to be in substantial compliance with requirements for approval by DOH and has been approved by DOH to operate as a Level I trauma center, Level II trauma center, or pediatric trauma center.

Section 5. Amends s. 395.401, F.S., relating to trauma services systems plans, to eliminate obsolete language and update provisions to conform to DOH's approval process for verifying that trauma centers have met specified requirements to operate as a trauma center and have been approved by the department. Requirements for the elements of local and regional trauma plans are updated to conform to the revised definitions of the various trauma centers in the bill.

Section 6. Amends s. 395.4015, F.S., relating to state regional trauma planning, to require the boundaries of trauma regions administered by the Department of Health to be coterminous with the boundaries of the regional domestic security task forces established within the Florida Department of Law Enforcement. Exceptions are provided for the delivery of trauma services by or in coordination with a trauma agency established before July 1, 2004, which may continue in accordance with public and private agreements and operational procedures entered into as provided in s. 395.401, F.S.

Section 7. Amends s. 395. 402, F.S., relating to trauma service areas, to revise requirements for DOH to review trauma service areas by deleting obsolete language and making minor conforming changes by deleting references to "state-sponsored" trauma centers.

Section 8. Amends s. 395.4025, F.S., relating to requirements for DOH's approval of trauma centers, to delete obsolete references to dates and the 1990 Report and Proposal for Funding State-Sponsored Trauma Centers, and to "state-sponsored" trauma centers and the verification process, to conform to other changes in the bill. The trauma center approval process by DOH is revised to authorize DOH to consider applications from hospitals seeking selection as a trauma center, including those current trauma centers that seek a change or redesignation in approval status as a trauma center, which are received by DOH no later than close of business on April 1.

The Department of Health is required to adopt by rule the procedures and process for notification, duration, and explanation of the termination of trauma services.

Section 9. Amends s. 395.403, F.S., relating to reimbursement of state-sponsored trauma centers, to delete references to "state-sponsored" or "state-approved" trauma centers and the verification process, to conform to other changes in the bill. Obsolete language relating to the reimbursement of trauma centers which specifies a funding formula that has never been implemented is deleted. In lieu of the funding formula, all provisional trauma centers and trauma centers shall be considered eligible to receive state funding when state funds are specifically appropriated for trauma centers. When state funds are appropriated without specific legislative allocation, the funds shall be distributed equally to all provisional trauma centers and trauma centers approved as of July 1 of the fiscal year immediately following the legislative session in which the funds were appropriated.

Section 10. Amends s. 395.4035, F.S., relating to the Trauma Services Trust Fund, to delete references to "state-sponsored" or "state-approved" trauma centers and the verification process, to conform to other changes in the bill.

Section 11. Amends s. 395.404, F.S., relating to the review of trauma registry data, to revise requirements for acute care hospitals to provide trauma registry data so that they must do so upon request of DOH rather than be required to furnish the data. The section is revised to more clearly show that it is the trauma registry data obtained by DOH that is confidential and exempt from the Public Records Law. Reporting requirements for trauma centers and acute care hospitals to furnish severe disability and head injury registry data to DOH are revised and expanded to include information on any person with a moderate-to-severe brain or spinal cord injury. Each trauma center and acute care hospital must report to DOH's brain and spinal cord injury central registry, consistent with the procedures and timeframes of s. 381.74, F.S., any person who has a moderate-to-severe brain or spinal cord injury. The report must include the name, age, residence, and type of disability of the individual and any additional information that DOH finds necessary. The requirement for trauma centers and acute care hospitals to report such data to DOH's brain and spinal cord injury registry is also codified in s. 381.74, F.S.

Section 12. Amends s. 395.405, F.S., relating to DOH's rulemaking for its duties over trauma care, to delete references to specific sections within part II, chapter 395, F.S., and to grant DOH rulemaking authority to enforce part II, chapter 395, F.S.

Section 13. Provides an effective date of July 1, 2004.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, s. 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Article I, s. 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Agency for Health Care Administration reported that the bill will have no fiscal impact on the agency or on Medicaid.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

On March 15, 2004, the Committee on Home Defense, Public Security, and Ports adopted two amendments that are traveling with the bill. The first amendment adds a new paragraph (g) to subsection (7) of section 212.055, F.S., to authorize counties, municipalities, or special districts with less than 800,000 residents to impose, with referendum approval, a Voter-Approved Indigent Care Surtax to be used for the sole purpose of funding trauma services by a state licensed trauma center. Governments levying the tax must develop, by ordinance, a plan for providing trauma services to victims presenting in the trauma service area in which the county, municipality, or special district is located.

The rate of levy for the trauma services surtax is capped at 0.2 percent. The maximum rate for a combination of the Voter-Approved Indigent Care Surtax, as provided in s. 212.055(7), F.S., and a discretionary sales surtax for trauma services as provided in this amendment is 0.5 percent. The Department of Revenue is required to collect and remit the tax proceeds to the clerk of the

circuit or municipality, or the treasurer of the special district, who must:

- Deposit the funds in a trauma services trust fund;
- Invest the deposits as prescribed in general law;
- Disburse the funds to the trauma center within its trauma service area. If the trauma center requests that these funds be used to generate federal matching funds under Medicaid, the funds must be disbursed to the Agency for Health Care Administration for that purpose to the extent allowable through the General Appropriations Act.
- Prepare a biennial audit of the trauma services trust fund.

The second amendment revises the application process for hospitals seeking approval to operate as trauma centers to apply beginning July 1, 2004, to the Department of Health for approval to operate as a provisional trauma center or trauma center.