

# 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 606

SPONSOR: Children and Families Committee and Senator Smith

SUBJECT: Trust funds

DATE: March 11, 2004      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Collins	Whiddon	CF	Fav/CS
2.	_____	_____	CJ	_____
3.	_____	_____	AHS	_____
4.	_____	_____	AP	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

The committee substitute for SB 606 creates the Child Advocacy Trust Fund within the Department of Children and Family Services (DCF). The source of funding for this proposed trust fund is designated court costs for specified crimes against children which are to be disbursed to the Florida Network of Children’s Advocacy Centers, Inc., to provide community based services that augment but do not duplicate services provided by any state agency.

The Board of Directors for the Florida Network of Children’s Advocacy Centers, Inc., is directed to retain 10 percent of funds generated for network expenditures to provide funds to match local contributions, at a rate not to exceed equal match, in communities establishing children’s advocacy centers. Up to five percent of any funds not used for local match may be used to support the activities of the network office. The committee substitute further requires the board of directors to develop funding criteria and allocation methodologies that take into account certain factors to ensure equitable distribution of funding to children’s advocacy centers that are members of the network.

The committee substitute requires legislative review to recommend termination or re-creation of the trust fund before its scheduled termination date of July 1, 2008.

This committee substitute creates an undesignated section of the Florida Statutes.

## II. Present Situation:

### *Creation and Operation of Trust Funds*

Trust funds are authorized by s. 215.32(2)(b)1, F.S., and consist of moneys received by the state which, under law or under trust fund agreement, are segregated for a purpose. Section 19(f) of Article III of the State Constitution governs the creation of trust funds. It 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. The constitution further specifies that such a trust fund must be created in a separate bill for that purpose only.

The Legislature has articulated statutory criteria governing the establishment of trust funds, as well. 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 moneys to be credited to the trust fund or specific sources of receipts to be deposited in the trust funds (s. 215.3207, F.S.).

### *Termination of Trust Funds*

By constitutional requirement, trust funds created after November 4, 1992, shall terminate not more than 4 years after the effective date of the act authorizing the creation of the trust fund, unless the Legislature by law sets a shorter authorization period for the trust fund (s. 19(f)(2), Art. III, State Constitution). The constitution exempts specified types of trust funds from this automatic termination (s. 19(f)(3), Art. III, State Constitution). A bill that creates a trust fund should specify its date of termination; or, if the trust fund is exempt from the automatic termination requirement, the bill should specify that the trust fund is exempt from this requirement.

The Legislature has provided a schedule and process for reviewing trust funds under ss. 215.3206 and 215.3208, F.S. Before the regular session of the Legislature immediately preceding the scheduled termination date of an executive branch trust fund (or an earlier date if specified by the Legislature), the agency responsible for the administration of the trust fund and the Governor must recommend to the Legislature whether the trust fund should be allowed to terminate or should be re-created (s. 215.3206(1), F.S.). Each recommendation is based on a review of the trust fund's purpose, use and necessity. A recommendation to re-create the trust fund may include suggested modifications to the purpose, sources of receipts, and allowable expenditures for the trust fund.

If the trust fund is terminated and not immediately re-created, all cash balances and income of the trust fund are deposited into the General Revenue Fund under s. 215.3206(2), F.S. The agency pays any outstanding debts of the trust fund as soon as practicable, and the Comptroller closes out and removes the trust fund from the various state accounting systems, using generally accepted accounting practices concerning warrants outstanding, assets, and liabilities.

### ***Child Advocacy Centers***

Children's Advocacy Centers (CAC), which currently provide services to 32 of the 67 Florida counties, are primarily designed and governed at the local level to provide support to the child protective investigations process. These centers work to coordinate the activities of agencies involved in the child abuse investigation to reduce the number of times the child must be interviewed, thereby reducing trauma to the child, to facilitate joint investigations, and to provide for prompt access to mental health and other appropriate services.

While the services offered by child advocacy centers vary based upon their funding and needs of the community, each center offers some combination of the following services:

- A neutral, child-friendly setting where all the agencies can interview and examine the child;
- Medical evaluations of the child;
- Coordination of multi-discipline team meeting of all of the agencies involved in a case;
- On-site victim advocacy; and
- Mental health services.

The Florida Network of Children's Advocacy Centers, Inc., is a state chapter of the National Children's Alliance. All 21 of Florida's children advocacy centers participate in this network. Membership is voluntary, and the organization provides guidance and technical assistance to the individual CACs. The network is staffed with an executive director and one half-time assistant. There is a board of directors that organizes its activities. Minimum standards for network membership are established in s. 39.3035, F.S. These criteria require that a center:

- be a private, not-for-profit incorporated agency or governmental entity;
- be a CPT or have a written agreement that incorporates the participation and service of the CPT;
- have a neutral, child-focused facility;
- have staff that is supervised and approved by a local board of directors or governmental agency;
- have a multi-disciplinary case review team that minimally consists of representation from the State Attorney's office, DCF, CPT, mental health services, law enforcement, and the child advocacy center staff;
- track the cases seen through the child advocacy center with minimum requirements on the data to be collected identified;
- provide referrals for medical exams and mental health services;
- provide training in the community; and
- have interagency agreements for the multidisciplinary approach to handling child sexual abuse and serious child abuse.

### **III. Effect of Proposed Changes:**

This committee substitute creates the Child Advocacy Trust Fund within the Department of Children and Family Services (DCF) using funds collected by the clerk of the court from offenders committing specific crimes against children (see CS/SB 602, which is linked to this

committee substitute for the specified crimes). The creation of this trust fund provides an opportunity for additional funding for CACs. Funds that are collected are to be disbursed to the Florida Network of Children's Advocacy Centers, Inc., for the purposes of funding children's advocacy centers.

The committee substitute directs the Board of Directors for the Florida Network of Children's Advocacy Centers, Inc., to retain 10 percent of funds generated by the court costs for network expenditures to provide funds to match local contributions, at a rate not to exceed equal match, in communities establishing children's advocacy centers. Up to five percent of any funds not used for local match may be used to support the activities of the network office. The committee substitute further requires the board of directors to develop funding criteria and an allocation methodology that ensures an equitable distribution of remaining funds to network participants. The allocation methodology must take into account factors that include but are not limited to the center's accreditation status with the National Children's Alliance (NCA), the number of clients served, and the population of the area being served by the children's advocacy center.

Services are currently being provided in 32 counties in Florida, by 21 different CACs that serve a varying number of clients with different types of services. The development of funding criteria and an allocation methodology will enable the network to disperse funding that is equitable and sensitive to community needs as well as to the number of clients served and the types of services that are provided by each children's advocacy center. The implementation of CS/SB 602 and the creation of this trust fund provides an opportunity for the expansion of CAC services into communities that do not currently receive services.

Mechanisms for the appropriation and disbursement of funds are provided for by this committee substitute. Funds that are generated are to be directed to DCF for the specific purpose of funding children's advocacy centers.

The committee substitute further requires legislative review to recommend termination or re-creation of the trust fund before its scheduled termination date of July 1, 2008.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

The trust fund created in this committee substitute appears to satisfy the statutory requirements for trust funds under s. 215.3207, F.S., by specifying the name of the trust fund, the agency responsible for administering the trust fund, the purposes for the trust fund, and the source of moneys to be credited to the trust fund. The constitutional

requirements that a trust fund must be created in a separate bill for that purpose only and the requirement of a four year termination date have been met.

**V. Economic Impact and Fiscal Note:**

**A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

There will be an increase in court costs imposed in cases of certain crimes against children.

The creation of this trust fund will allow for the collection and distribution of an undetermined amount of new revenues to Children's Advocacy Centers that are members of the Florida Network of Children's Advocacy Centers, Inc.

**C. Government Sector Impact:**

The Department of Children and Family Services does not report a fiscal impact as a result of this committee substitute.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

This committee substitute is linked to CS/SB 602 and the effective date is contingent upon the passage of CS/SB 602.

**VIII. Amendments:**

None.