

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.)

Prepared By: Domestic Security Committee

BILL: CS/SB 2616

SPONSOR: Domestic Security Committee and Senator Clary

SUBJECT: Emergency Management/Special Needs

DATE: April 13, 2005

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Pardue</u>	<u>Skelton</u>	<u>DS</u>	<u>Fav/CS</u>
2.	_____	_____	<u>CA</u>	_____
3.	_____	_____	<u>HE</u>	_____
4.	_____	_____	<u>HA</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill amends various sections of Florida Statutes with respect to the planning and operation of special needs emergency shelters in the state. The bill assigns lead agency responsibilities to various departments, provides for reimbursement for hospitals and nursing homes that provide special needs services during a disaster situation, changes the role of the Special Needs Shelter Interagency Committee, requires the Department of Health to establish a statewide special needs registration data base, requires the Department of Health to publish rules relating to physician reimbursement, provides for designation of county health departments with implementation responsibilities, and minimum standards relating to special needs shelters, provides for procedures to address the needs of families of special needs shelter residents, requires the Division of Emergency Management to prepare a biennial shelter plan that estimates future needs for special needs shelters, adds hospice and durable medical equipment providers to that of home health agencies as providers who are allowed to suspend care when emergency situations beyond their control arise during a disaster, describes client abandonment during a disaster and provides for regulatory review, authorizes certain entities to exceed their licensed capacity during an evacuation situation, provides for an inactive license status when a licensee is unable to operate due to damage, provides for notification of clients affected by a grant of inactive status, and provides for reactivation of an inactive license status. The bill creates a section in the Florida Statutes to ensure nursing homes in a disaster area receive daily contact from the Agency for Health Care Administration.

This bill substantially amends the following sections of the Florida Statutes: 252.355, 381.0303, 252.385, 400.492, and 408.831. The bill creates s. 252.357.

II. Present Situation:

The 2004 hurricane season placed extreme demand on the state's ability to respond to natural disasters. Post season analysis of the state's Special Needs Shelters (SpNS) operations highlighted issues of concern such as organizational deficiencies, damage to shelter structures, power outages, demographic based changes in demand for special needs shelters, and the stress on patients, caregivers, and emergency managers responding to one tropical storm and four named hurricanes in 55 days.

The Governor issued Executive Order Number 04-192 on September 1, 2004 authorizing the Department of Health to assume responsibility for operations of special needs shelters if specifically requested by any county Director of Emergency Management. This order, incorporated in subsequent hurricane executive orders, was prompted by "The recognition that the system was overwhelmed and that the department was in the best position, under the circumstances, to assume expedient responsibility for SpNS operations..."¹

The Department of Health in its *2004 Hurricane Season AFTER ACTION REPORT* documents that changing demographics have resulted in increasing numbers of elderly and disabled individuals receiving in-home services. The report states "During these storms, Florida, with its high proportion of elderly, experienced the effects of these combinations of factors like never before. Individuals, who functioned well in their homes during normal times, many with support services from home health care agencies, were unable to maintain that level of functionality during and after the storms. Storm-related disruptions to communications, transportation, power supplies, and lack of continuity of in-home support services as well as structural damage to their homes, forced many seniors out of their independent living status and into SpNS, at least temporarily. In some areas, those who had not evacuated prior to the storm found they could not safely remain in their homes after the storm due to these disruptions resulting in a "second wave" of evacuees entering special needs shelters."²

The department's report highlights a number of issues and lessons learned including:

- Some SpNS were used with structural integrity ratings below the strength of the hurricane category faced while other SpNS sustained damage at wind speeds below their maximum rating.
- County health departments were not always involved with other government entities in the selection of SpNS.
- Many eligible persons were not aware of the Special Needs Registry and many of those registered did not actually choose to shelter in SpNS.
- Many eligible persons asked to be added to the registry just prior to storm land fall and many registry lists were not updated.
- Many of the operational and shelter management issues that arose had been previously addressed in published documents yet some staff were not aware of the available resources highlighting a need for improved training.

¹ Florida Department of Health, *2004 Hurricane Season AFTER ACTION REPORT*, March 4, 2005, page E2.

² Id., pages E2-E3.

- Better asset assignment was needed, including staff with current specialty skill sets and specialized equipment such as heavy patient lift devices or able-bodied staff, respiratory therapists, oxygen concentrators and other medical support equipment.
- A broad range of communications devices were needed including cell phones, satellite phones, 800 megahertz radios. These devices should be identified ahead of time and assigned to SpNS.
- Stressful shelter conditions such as lack of air conditioning and marginal food and water supplies lead to rapid negative health impact on patients highlighting the need for discharge planning.
- As some shelters were damaged or destroyed by previous storms, back-up alternatives such as regional SpNS were suggested at the same time highlighting the potential to overwhelm adjacent county medical resources.

III. Effect of Proposed Changes:

Section 1 amends s. 252.355, F.S., adding the Department of Education, the Agency for Persons with Disabilities, and the Agency for Workforce Innovation to the list of departments and agencies responsible for providing registration information about SpNS to all people with disabilities or special needs who receive services.

This committee substitute (CS) deletes a reference to the Department of Labor and Employment Security which no longer exists.

The Department of Community Affairs is designated as the lead agency responsible for conducting community education and outreach regarding registration of persons with special needs and general information about special needs shelters. The department is required to disseminate such educational and outreach information through the local emergency management offices. The CS further requires the department to coordinate curriculum development and education dissemination related to SpNS with the Governor's Americans With Disabilities Working Group and the other departments and agencies named in the section.

The CS also requires that the Department of Health be provided with registration information relating to persons with special needs in order to perform the department's duties and responsibilities.

Section 2 amends s. 381.0303, F. S., reflecting organizational restructuring of certain executive branch departments and agencies. The bill requires the local Children's Medical Services offices to assume lead responsibility for locally coordinating health care providers and other interested parties in developing a plan for staffing and medical management of pediatric special needs shelters. In addition, Section 2:

- Deletes portions of the section referring to provisional appropriations to support medical services disaster coordination positions in county health departments;
- Requires county governments to assist county health departments in recruitment of health care practitioners to staff special needs shelters;

- Includes Children's Medical Services along with appropriate county health departments and local emergency management agencies in jointly determining responsibility for medical supervision in special needs shelters;
- Designates the Department of Elderly Affairs as the lead agency responsible for placement of special needs elderly residents and Alzheimer adult special needs residents who have become homeless due to a disaster event. The department is also required to provide for appropriate and necessary discharge planning for special needs shelter residents. Other elder service agencies are required to assist the department in this effort;
- Designates the Department of Children and Family Services as the lead agency responsible for ensuring the placement of mental health special needs residents and children within the welfare system who have become homeless due to a disaster event and for appropriate and necessary discharge planning for special needs shelter residents. Other social service organizations are required to assist the department in this effort;
- Designates the Agency for Persons with Disabilities as the lead agency responsible for ensuring the placement of special needs residents with developmental disabilities who have become homeless due to a disaster event and for appropriate and necessary discharge planning;
- Clarifies that in all cases, the appropriate agency is required to provide appropriate and necessary discharge planning for their respective clients;
- Allows for state employees with pre-established disaster response roles to serve during disaster events commensurate with their knowledge, skills, and abilities as needed;
- Provides for hospitals and nursing homes to be able to submit invoices for reimbursement from the state for expenses incurred in sheltering special needs persons;
- Changes the role of the Special Needs Shelter Interagency Committee from oversight to consultative in the planning and operation of special needs shelters. Certain committee tasks listed in the statute such as submitting suggestions to the Legislature will become required instead of permissively allowed;
- Requires recommendations to the Legislature from the Special Needs Shelter Interagency Committee include but not be limited to defining a special needs shelter and a special needs person, developing a uniform registration form, improving both registration public awareness and communications with special needs persons before and after a disaster, and developing special needs shelter guidelines;
- Requires the Department of Health to establish a statewide database designed to collect and disseminate timely special needs registration information;
- Adds representatives from the Agency for Workforce Innovation, the Florida Association of Aging Services Providers, and the AARP to the membership of the Special Needs

Shelter Interagency Committee and encourages the committee to use teleconference or video conference capabilities to ensure widespread participation.

- Requires the Department of Health to establish rules to provide a definition of a special needs patient, specification with respect to physician reimbursement and to designate county health departments which will have responsibility for implementing the recruitment and reimbursement of the health care practitioners who will staff local special needs shelters;
- Requires Department of Health rules to include minimum SpNS standards relating to the provision of electricity, staffing, transportation services, compliance with applicable service animal laws, eligibility criteria and provision for services and supports for persons with physical, cognitive, and psychiatric disabilities, standardized applications that delineate eligibility criteria and expected levels of services, and procedures for addressing the needs of unregistered individuals seeking shelter;
- Requires SpNS meet the Florida Accessibility Code or failing to meet the standards provide a plan to achieve compliance;
- Requires department rules to establish procedures for shelter needs of families and adult caregivers of special needs individuals; and
- Affirms the requirement for the submission of emergency management plans by home health agencies, nurse registries, and hospice programs to local county health departments. These plans must specifically address agency functional staffing of special needs shelters to ensure quality of care and services for clients registered pursuant to s. 252.355, F. S. Staffing plans for a nurse registry shall be consistent with s. 400.506 (16) (a), F. S.

Section 3 amends s. 252.385, F. S., requiring the Division of Emergency Management to biennially prepare and submit to the Governor and the Cabinet a statewide emergency shelter plan. The plan must identify the general location and square footage of SpNS, by planning council region, during the next 5 years. The Department of Health shall assist the division in determining the estimated need for SpNS using information from the special needs registration data base.

Local emergency management agencies are required to inspect designated emergency shelter facilities for readiness prior to activation for a specific hurricane or disaster.

Section 4 amends s. 400.492, F. S., adding nurse registry, hospice, and durable medical equipment providers to that of home health agencies as providers who are required to prepare, maintain, and annually update a comprehensive emergency management plan.

Home health, hospice, and durable medical equipment providers are allowed to suspend care when emergency situations beyond their control, such as impassable roads, make it impossible to provide services. These agencies and nurse registries will be allowed to establish links to local

emergency operations centers in order to determine a mechanism to enable the agencies to reach their clients in a disaster area.

Presentation of home health care or hospice clients to a special needs shelter without a good faith effort by the agency to provide services in the shelter setting will constitute client abandonment and will result in regulatory review.

Section 5 amends s. 408.831, F. S., allowing entities subject to this section, and acting in accordance with an emergency plan and an authorized evacuation order, to exceed their licensed capacity to act as a receiving facility. While in an overcapacity status, each provider must furnish or arrange for appropriate care. Overcapacity status in excess of 15 days must comply with all fire safety requirements or their approved equivalency. Overcapacity status beyond 15 days must be approved by the Agency for Health Care Administration based on satisfactory justification.

Under this section, an inactive license may be issued to a licensee located in a declared disaster area if the provider's operation suffered damage during the state of emergency, is currently licensed, does not have a provisional license, and is temporarily unable to provide service but is reasonably expected to resume operations within 12 months.

An inactive license may be issued for a period of up to 12 months and may be renewed for up to an additional 6 months upon demonstrating progress towards reopening. The bill provides requirements for submission of a request for an inactive license or extension of a previously approved inactive period to the Agency for Health Care Administration.

The bill provides for notification to clients of any necessary discharge or transfer as a result of granting inactive provider status.

The bill also provides for a beginning date for the inactive licensure period and procedures for the reactivation of an inactive license.

Section 6 creates s. 252.357 to require the Agency for Health Care Administration, working in the State Emergency Operations Center in the Emergency Services Function-8 role, make daily contact with each nursing home in a disaster area. The bill provides that the Agency for Health Care Administration shall provide for and publish, by June 1, 2005 and annually thereafter, a 24-hour emergency telephone number to be used by nursing homes to contact the agency at the State Emergency Operations Center.

Section 7 provides for an effective date of July 1, 2005

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Disaster response, particularly the set-up and operation of special needs shelters, places considerable demand of private sector health care and health care support systems. Cost of service delivery is situation dependent, however, this bill addresses rule making for reimbursement of physicians and hospitals providing special needs shelter services.

C. Government Sector Impact:

Changes proposed by this bill involve improved planning and training and would be expected to be absorbed within current budgets. The Department of Health anticipates a need for 27 additional staff positions related to special needs shelter activities at a cost of \$2.2 million annually.

VI. Technical Deficiencies:

The bill provides that the Agency for Health Care Administration provide for and publish, by June 1, 2005, a 24-hour emergency telephone number to be used by nursing homes to contact the agency at the State Emergency Operations Center. This date is prior to the effective date of July 1, 2005 provided for in the bill.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
