

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 1058

SPONSOR: Senators Diaz de la Portilla and Wise

SUBJECT: Emergency Management

DATE: February 8, 2006

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>TA</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This committee substitute 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 education and outreach responsibilities to the Department of Community Affairs, provides for reimbursement for hospitals and nursing homes that provide special needs services during a disaster situation, amplifies the role of the Special Needs Shelter Interagency Committee, requires the Department of Health to publish rules relating to physician reimbursement, 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 initial contact from the Agency for Health Care Administration.

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

This bill creates section 252.357, Florida Statutes.

II. Present Situation:

The 2004 and 2005 hurricane seasons 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.

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, "(T)he 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, "(D)uring 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 persons 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 led 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.

During the 2005 hurricane season, additional analysis revealed that physically impaired individuals who decided to shelter at home in multi-story buildings became “trapped” when elevators were rendered inoperable due to power outages. These individuals represent a substantial group that may also seek SpNS services in the future.

III. Effect of Proposed Changes:

Section 1 of the bill amends s.252.355, F.S., adding the Department of Education and the Agency for Persons with Disabilities, 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. The bill 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 bill 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 bill 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., providing for the operation, maintenance and closure of Special Needs Shelters. The bill:

- Deletes portions of the section referring to provisional appropriations to support medical services disaster coordination positions in county health departments;
- 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;

- Amplifies the county health department employees' requirement to staff special needs shelters and requires county governments to assist in the process;
- 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 local emergency management agencies as responsible for the closure of special needs shelters following an emergency or disaster;
- Declares that state employees with a pre-established disaster response role, unless they have other mandated response activities that preclude participation may be called on to serve during disaster events commensurate with their knowledge, skills, and abilities;
- Authorizes the Secretary of Elderly Affairs to convene a multi-agency emergency special needs shelter response team as necessary to assist local areas severely impacted by a natural or manmade disaster. The bill provides that the team will be made of at least one representative from the Departments of Elderly Affairs, Health, Children and Family Services, Veterans' Affairs, Community Affairs, and the Agencies for Health Care Administration and Persons With Disabilities;
- Deletes a "subject to availability" of funds reference and 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;
- Provides a limitation for reimbursement for services provided to a special needs client if the client was enrolled in another state-funded program such as Medicaid or another similar program that would otherwise pay for the same services;
- Allows the Secretary of Health to establish a special needs shelter interagency committee, serve or appoint a committee chair, and requires the Department to provide necessary staff and resources support to the committee;
- Changes the role of the Special Needs Shelter Interagency Committee by requiring it accomplish certain tasks including the following;
- 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 client, developing a uniform registration form, improving both registration public awareness and communications with special needs clients before and after a disaster, recommending the construction or designation of additional special needs shelters in underserved areas, and developing special needs shelter guidelines;
- Provides for membership of the committee and requires the use of teleconference or video conferencing to ensure statewide input and participation;

- Authorizes the Department of Health rule making authority to adopt special needs shelter standards including staffing, transportation services, compliance with applicable service animal laws, client eligibility criteria, provision of services and support, standardized applications for services, procedures for addressing the needs of unregistered clients, requirements for meeting the Florida Accessibility Code for Building Construction, procedures for addressing the needs of families of special needs clients, and any other minimum standards that may be required;
- 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 ss. 400.497, 400.506, and 400.610, 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 for approval, subject to the requirements of s. 1013.37 (2), F.S., 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 permit the Agency for Health Care Administration, working in the State Emergency Operations Center in the Emergency Services Function-8 role, to make initial 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 July 15, 2005 and annually thereafter, an emergency telephone number to be used by nursing homes to report requests for assistance.

Section 7 provides for an effective date of July 1, 2006.

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 on 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 20 additional staff positions related to special needs shelter activities at a cost of \$1.4 million initially and \$1.64 million recurring.

VI. Technical Deficiencies:

On page 24, lines 8 and 9 references a date of “July 15, 2005” for establishment of a published emergency telephone number. This date is prior to the effective date of the bill.

Discussions with representatives of the Department of Health indicate that references to “durable medical equipment providers” in section 4 of this bill should properly reference “home medical equipment providers” instead.

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.
