The Florida Senate

PROFESSIONAL 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: Children, Families, and Elder Affairs Committee

BILL:	SB 2272
INTRODUCER:	Senator Bennett and Others
SUBJECT:	Fetal Alcohol Syndrome Prevention
DATE:	April 17, 2007 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Munroe	Wilson	HP	**Favorable**
2.	Ray	Jameson	CF	**Favorable**
3.			JU	
4.			HA	
5.				
6.				

I. Summary:

The bill creates the Fetal Alcohol Syndrome Prevention Act and expresses legislative findings. The bill requires the Department of Health (DOH) to develop a public education program to inform the public regarding the detrimental effects of fetal alcohol syndrome and requires the information to be placed on the website's of DOH, the Department of Children and Family Services (DCF), and the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation (DBPR).

The bill provides that DOH and DCF must establish a Fetal Alcohol Syndrome Prevention Network. The bill provides that DOH must establish a telephone hotline on fetal alcohol syndrome. Fetal Alcohol Spectrum Disorders Diagnostic and Intervention Centers and Florida-licensed substance abuse treatment providers must establish a system for assessing charges for their services, which are to be apportioned according to a person's ability to pay.

The bill provides that the disability of minority is removed for a pregnant minor solely for obtaining voluntary alcohol or substance abuse treatment services from a licensed substance abuse treatment services provider. The bill establishes criteria and procedures for voluntary and involuntary assessment, stabilization, and treatment of a female pregnant minor or adult woman whose consumption of alcoholic beverages may be placing her unborn child at risk of fetal alcohol syndrome.

The bill specifies criteria and evidence necessary to support a court finding for involuntary admission of a pregnant woman for preventing fetal alcohol syndrome. The bill revises requirements and procedures for involuntary assessment, stabilization, and treatment of

substance abuse to include pregnant minors and adult women specifically to prevent fetal alcohol syndrome.

The bill requires each vendor licensed to sell alcoholic beverages for consumption to post a health warning sign on its licensed premises where alcoholic beverages are sold. The sign must contain information specified in the bill regarding fetal alcohol birth defects and warning patrons to not drink during pregnancy or before driving a car, or operating a boat or machinery. The Division of Alcoholic Beverages and Tobacco of DBPR must produce and distribute the health warning signs to vendors and collect an amount sufficient to cover the costs of printing and delivering the signs. A vendor of alcoholic beverages may not sell an alcoholic beverage unless the vendor has properly posted the health warning signs required by the bill. A vendor who fails to post the signs and sells alcoholic beverages may be liable for a second-degree misdemeanor.

Subject to appropriations, the bill requires DOH to contract with the Florida Center for Child and Family Development to establish fetal alcohol syndrome disorders diagnostic and intervention centers. The centers must be located in Sarasota, Hillsborough, Duval, and Miami-Dade Counties and other counties to be added as the need arises and funds are sufficient for operations.

Subject to appropriations, the bill requires DOH to contract with the Florida Center for Child and Family Development to develop and conduct professional training for Healthy Families Florida, healthy start coalitions, child protective services programs, child care facilities, domestic violence centers, behavioral health care providers, educational programs, health care professionals, and other groups working with children and pregnant women.

This bill amends ss. 397.675, 397.6772, 392.6791, 397.6793, 397.681, 397.6811, 397.6814, 397.6815, 397.695, 397.6951, 397.6955, 397.6957, and 397.697, Florida Statutes.

This bill creates ss. 397.602, 397.68185, and 562.063, F.S., and five undesignated sections of law.

II. Present Situation:

Fetal Alcohol Syndrome

According to the Centers for Disease Control and Prevention (CDC), prenatal exposure to alcohol can cause a range of disorders, known as fetal alcohol spectrum disorders (FASDs). One of the most severe effects of drinking during pregnancy is fetal alcohol syndrome (FAS), which is one of the leading known preventable causes of mental retardation and birth defects. If a woman drinks alcohol during her pregnancy, her baby can be born with FAS, a lifelong condition that causes physical and mental disabilities. Several characterizations of FAS are abnormal facial features, growth deficiencies, and central nervous system problems. People with FAS might have problems with learning, memory, attention span, communication, vision, hearing, or a combination of these. These problems often lead to difficulties in school and

problems getting along with others. It is a permanent condition that affects every aspect of an individual's life and the lives of his or her family.[1]

Three terms often used are fetal alcohol effects (FAE), alcohol-related neurodevelopmental disorder (ARND), and alcohol-related birth defects (ARBD). The term FAE has been used to describe behavioral and cognitive problems in children who were prenatally exposed to alcohol, but who do not have all of the typical diagnostic features of FAS. In 1996, the Institute of Medicine replaced FAE with the terms ARND and ARBD. Children with ARND might have functional or mental problems linked to prenatal alcohol exposure. These include behavioral or cognitive abnormalities or a combination of both. Children with ARBD might have problems with the heart, kidneys, bones, or hearing.

All FASDs may be prevented—if a woman does not drink alcohol while she is pregnant.

According to the CDC, the reported rates of FAS vary widely. These different rates depend on the population studied and the surveillance methods used. The CDC studies show FAS rates ranging from 0.2 to 1.5 per 1,000 live births in different areas of the United States. Other FASDs are believed to occur approximately three times as often as FAS.[2] Children with FASDs might have the following characteristics or exhibit the following behaviors:[3]

- Small size for gestational age or small stature in relation to peers;
- Facial abnormalities such as small eye openings;
- Poor coordination;
- Hyperactive behavior;
- Learning disabilities;
- Developmental disabilities such as speech and language delays;
- Mental retardation or low IQ;
- Problems with daily living;
- Poor reasoning and judgment skill; or
- Sleep and sucking disturbances in infancy.

Marchman Act

Chapter 397, F.S., is cited as the "Hal S. Marchman Alcohol and Other Drug Services Act of 1993" or the Marchman Act (Act). The Act provides procedures and requirements as an alternative to criminal imprisonment for substance abuse impaired adults and juveniles.[4] "Impaired" or "substance abuse impaired" is defined to mean a condition involving the use of alcoholic beverages or any psychoactive or mood-altering substance in such a manner as to induce mental, emotional, or physical problems and cause socially dysfunctional behavior.

[1] Centers for Disease Control and Prevention, "Fetal Alcohol Disorders" Website, http://www.cdc.gov/ncbddd/fas/fasask.htm (Last visited April 15, 2007).
[2] Id.
[3] Id.
[4] s. 397.305, F.S.

There are two types of admissions for treatment under the Act: voluntary and involuntary admissions. Voluntary admissions are encouraged and the Act removes the disability of a minor so that a person under 18 years of age may seek substance abuse services without the consent of his or her parents or guardian.[5]

The Act provides for two types of involuntary admissions, which include noncourt-involved admissions[6] that focus on assessing and stabilizing a person who is impaired, and court involved admissions.[7] There are three types of non-court involved admissions:

- Protective custody (allows law enforcement to seek admission of an adult or minor);[8]
- Emergency admissions (allows medical personnel to seek admission of a patient);[9] and
- Alternative involuntary assessment for a minor (allows a parent, legal guardian; or legal custodian to bring a minor to a licensed substance abuse services facility for assessment).[10]

The Act specifies two procedures for the admissions involving courts:

- Petitions for involuntary assessment and stabilization;[11] and
- Petitions for involuntary treatment.[12]

Under the Act, the person who is the subject of a petition for involuntary assessment and stabilization or involuntary treatment has the right to counsel and has the right to have one appointed if qualified as an indigent person under s. 57.081, F.S.

The Act specifies criteria to be applied in *nonjudicial and judicial settings* for an involuntary admission, including protective custody, emergency admission, and alternative involuntary treatment, and alternative involuntary assessment for minors for purposes of assessment and stabilization and for involuntary treatment. A person meets the criteria for involuntary admission if there is *good faith reason to believe* the person is substance abuse impaired and, because of such impairment:

- Has lost the power of self-control with respect to substance use; and either
- Has inflicted, or threatened or attempted to inflict, or unless admitted is likely to inflict, physical harm on himself or herself or another; or
- Is in need of substance abuse services and, by reason of substance abuse impairment, his or her judgment has been so impaired that the person is incapable of appreciating his or her need for such services and of making a rational decision in regard thereto; however, mere refusal to receive such services does not constitute evidence of lack of judgment with respect to his or her need for such services.

[5] s. 397.601, F.S.
[6] ss. 397.677 – 397.6799, F.S.
[7] ss. 397.681 – 397.6977, F.S.
[8] ss. 397.677 – 397.6775, F.S.
[9] ss. 397. 679 – 397.6775, F.S.
[10] ss. 397.6798 – 397.6799, F.S.
[11] ss. 397.6811 – 397.6822, F.S.
[12] ss. 397.693 – 397.6977, F.S.

An involuntary admission includes admission for an assessment, stabilization, or treatment, when appropriately documented and granted by a court. The Act defines "assessment" to mean the systematic evaluation of information gathered to determine the nature and severity of the client's substance abuse problem and the client's need and motivation for services.[13] Assessment entails the use of a psychosocial history supplemented, as required by rule, by medical examinations, laboratory testing, and psychometric measures. "Stabilization" is defined to mean alleviation of a crisis condition or prevention of further deterioration and both of which connote short-term emergency treatment.[14] A licensed service provider is defined under the Act as a public agency under this chapter, a private for-profit or not-for-profit agency under this chapter, a physician or any other private practitioner licensed under this chapter, or a hospital that offers substance abuse impairment services through one or more of the following licensable service components: addictions receiving facility, detoxification, intensive inpatient treatment, residential treatment, day and night treatment, outpatient treatment, medication and methadone treatment, prevention, and intervention.

The circuit court has jurisdiction over matters under the Act and petitions must be filed in the county where the person who is the subject of the petition is located. A petition for involuntary assessment and stabilization of *an adult* may be filed by the respondent-adult's spouse or guardian, any relative, a private practitioner, the director of a licensed service provider, or any three adults who have personal knowledge of the respondent's substance abuse impairment.[15] A petition for involuntary assessment and stabilization of a minor may be filed by a parent, legal guardian, legal custodian, or licensed service provider.

Relying solely on the contents of the petition, without appointing an attorney and without conducting a hearing, a court may issue an exparte order upon the filing of a petition for the involuntary assessment and stabilization of a substance abuse impaired person by the clerk of the court, authorizing law enforcement to bring the respondent to a licensed service provider for assessment and stabilization.[16] A person determined by the court to appear to meet the criteria for involuntary admission under s. 397.675, F.S., may be admitted for a period of five days.[17] A licensed service provider may admit a client for involuntary assessment and stabilization for a period not to exceed five days. The client must be assessed without unnecessary delay by a qualified professional. If an assessment is performed by a qualified professional who is not a physician, the assessment must be reviewed by a physician prior to the end of the assessment period.[18]

If a licensed service provider is unable to complete the involuntary assessment and, if necessary, stabilization of a client within five days after the court's order, it may, within the original time period, file a written request for an extension of time to complete its assessment, and shall, in accordance with confidentiality requirements, furnish a copy to all parties. With or without a hearing, the court may grant additional time, not to exceed seven days after the date of the renewal order, for the completion of the involuntary assessment and stabilization of the client.

[13] s. 397.311(2), F.S.
[14] s. 397.311(30), F.S.
[15] s. 397.6811, F.S.
[16] s. 397.6815(2), F.S.
[17] ss. 397.6811 – 397.6815, F.S.
[18] s. 397.6819, F.S.

The original court order authorizing the involuntary assessment and stabilization, or a request for an extension of time to complete the assessment and stabilization that is timely filed pursuant to the Act, constitutes legal authority to involuntarily hold the client for a period not to exceed ten days in the absence of a court order to the contrary.[19]

Based upon the involuntary assessment, a qualified professional of the hospital, detoxification facility, or addictions receiving facility, or a qualified professional when a less restrictive component has been used, must:

- Release the client and, where appropriate, refer the client to another treatment facility or service provider, or to community services;
- Allow the client, if the client has consented, to remain voluntarily at the licensed provider; or
- Retain the client when a petition for involuntary treatment has been initiated, the timely filing of which authorizes the service provider to retain physical custody of the client pending further order of the court.

Adhering to federal confidentiality regulations, the notice of disposition must be provided to the petitioner and to the court.

A client or his or her authorized personal representative, or parent or legal guardian if the client is a minor, is required to contribute toward the cost of substance abuse services in accordance with his or her ability to pay, unless otherwise provided by law.[20] The parent, legal guardian, or legal custodian of a minor is not liable for payment for any substance abuse services provided to the minor without parental consent unless the parent, legal guardian, or legal custodian participates or is ordered to participate in the services, and only for the substance abuse services rendered. If the minor is receiving services as a juvenile offender, the obligation to pay is governed by the law relating to juvenile offenders.[21]

Prenatal Screening

Under s. 383.14, F.S., the Department of Health must promote the identification and screening of all newborns in this state and their families for environmental risk factors such as low income, poor education, maternal and family stress, emotional instability, substance abuse, and other high-risk conditions associated with increased risk of infant mortality and morbidity to provide early intervention, remediation, and prevention services, including, but not limited to, parent support and training programs, home visitation, and case management. Identification, perinatal screening, and intervention efforts must begin prior to and immediately following the birth of the child by the attending health care provider. Such efforts must be conducted in hospitals, perinatal centers, county health departments, school health programs that provide prenatal care, and birthing centers, and reported to the Office of Vital Statistics of the DOH.

The Healthy Start Program is implemented by DOH and its prenatal risk screen includes a question related to recent alcohol use. The data on prenatal screening rates indicate that

[19] s. 397.6821, F.S.
[20] s. 397.431(2), F.S.
[21] s. 397.431(3), F.S.

88 percent of pregnant women were offered screening and 66 percent were screened. Women enrolled in the Healthy Start and Healthy Families programs receive information about the dangers of drinking during pregnancy. This information is also available from the prenatal clinics within county health departments as a part of their required patient education. Pregnant women who are using alcohol are referred to treatment services and may or may not choose to receive treatment. Pregnant women who choose treatment are given priority pursuant to federal block grant funding requirements for many licensed substance abuse providers.[22]

Beverage Law

The Division of Alcoholic Beverages and Tobacco of DBPR enforces the alcoholic beverages law in chapters 562, 563, 564, 565, 567, and 568, F.S.

III. Effect of Proposed Changes:

The bill creates the Fetal Alcohol Syndrome Prevention Act. The bill expresses legislative findings regarding fetal alcohol syndrome, stating that: FAS is a serious, permanent, and lifealtering condition that substantially and adversely affects persons born with FAS as well as their parents, siblings, and children; FAS is an extremely costly condition when the value of the medical, psychiatric, respite, and other care is calculated over the cost of an affected person's lifetime; and instances of FAS may be prevented or reduced by taking steps necessary to protect a developing fetus from the detrimental effects of alcohol consumption by a pregnant woman. The bill requires the DOH to develop a public education program to inform the public about the detrimental effects of FAS, which must include information specified in the bill. The DOH, DCF, and the Division of Alcoholic Beverages and Tobacco of DBPR must provide access to the public information on their respective Internet web pages.

The bill provides that DOH in conjunction with DCF, must establish a Fetal Alcohol Syndrome Prevention Network. The network must consist of Florida-licensed substance abuse service providers and Fetal Alcohol Spectrum Disorders Diagnostic and Intervention Centers that have agreed to participate in providing counseling, education, and support to pregnant women who have been exposed to alcohol while pregnant. The bill provides that DOH must establish a telephone hotline for persons to call in order to obtain information on FAS, any local Florida-licensed substance abuse service providers participating in the network, or the nearest Fetal Alcohol Spectrum Disorders Diagnostic and Intervention Center participating in the network.

Fetal Alcohol Spectrum Disorders Diagnostic and Intervention Centers and Florida-licensed substance abuse service providers must establish a system for assessing charges for services rendered when involuntary or court-ordered services are required. The bill requires the fees for any services provided by the centers and substance abuse providers to be apportioned according to the person's ability to pay.

The bill specifies procedures for a pregnant woman to seek *voluntary admission* for an evaluation for counseling or treatment services at a Florida-licensed substance abuse service provider or Fetal Alcohol Spectrum Disorder Diagnostic and Intervention Center that participates

[22] Substance Abuse Prevention and Treatment Block Grant, 42 U.S.C. 300x-21, et seq. and 45 CFR 96.123.

in the FAS prevention network. The substance abuse provider's evaluation must recommend the least restrictive course of action, plan, or service reasonably necessary to remove or minimize the risk of alcohol exposure to the unborn child which is appropriate to meet the pregnant woman's needs.

The bill removes the disability of minority for a pregnant minor under 18 years of age solely for the purposes of obtaining voluntary alcohol or substance abuse treatment services from a Florida-licensed substance abuse provider. Except for law enforcement activities in connection with protective custody, the disability of minority is not removed if there is an involuntary admission for alcohol or substance abuse treatment services. If an involuntary admission for alcohol or substance abuse is involved, parental participation may be required as the court finds appropriate.

The bill revises the criteria for *involuntary admissions* for alcohol or substance abuse treatment services to include a provision for a woman to meet the criteria for involuntary admission if a court finds that she is pregnant and, while knowing she is pregnant, continues to consume alcoholic beverages to such a degree that there is a reasonable belief that the child, when born, will be diagnosed as having FAS unless the woman ceases to consume alcoholic beverages. It must be shown that there is good cause to believe that the woman will continue to consume alcoholic beverages if not involuntarily admitted to a treatment facility. A woman who is involuntarily admitted for alcohol or substance abuse treatment may be admitted only to a Florida-licensed substance abuse service provider, which has agreed to participate in providing counseling, detoxification, residential treatment, or other services to pregnant women.

The bill specifies the evidence necessary to support a court finding for involuntary admission of a pregnant woman for preventing FAS. A court may consider the following criteria:

- Whether the pregnant woman was notified of the effects of FAS and was counseled against the consumption of alcoholic beverages;
- Whether, after being warned against the consumption of alcoholic beverages, the woman continued to consume alcoholic beverages;
- Whether the pregnant woman has been offered and refused alcohol or substance abuse treatment or, if enrolled in an alcohol or substance abuse treatment program, failed to make a good faith effort to participate in the treatment program;
- Whether the pregnant woman exhibits a lack of self-control in the consumption of alcoholic beverages;
- Whether the quantity and frequency of alcoholic beverage consumption by the pregnant woman is significant;
- Whether the pregnant woman has been recommended for alcohol or substance abuse treatment before or during her pregnancy by her physician, spouse, or any relative or friend;
- Whether testimony by a medical expert concerning the estimated alcohol-related risk to the health of the unborn child based on the pregnant woman's continued consumption of alcoholic beverages is convincing; and
- Whether there is any other evidence the court considers relevant to determining whether the pregnant woman's involuntary admission is necessary to prevent the continued consumption

of alcoholic beverages by the pregnant woman and that, absent such intervention, there exists a reasonable possibility that the unborn child, when born, may be diagnosed as having FAS.

The bill revises requirements in the Act for detaining a person in *protective custody* if the person fails to consent to assistance and a law enforcement officer has determined that a hospital or detoxification or addictions receiving facility is the most appropriate place for the person. A law enforcement officer may not detain a pregnant woman in jail for purposes of preventing FAS.

The bill revises requirements for *emergency admissions* under the Act to authorize the admission of an adult pregnant woman whose consumption of alcoholic beverages may place her unborn child at risk of FAS. To do so, the certifying physician, joined by the pregnant woman's spouse, parent, or guardian, or sibling must sign an affidavit stating that the emergency admission is necessary to avert a substantial alcohol-related risk to the health of the unborn child and that the pregnant woman has been offered and refused alcohol or other substance abuse treatment services. For purposes of an emergency admission under the Act, provisions relating to minors are amended to specify that "minor" includes an unemancipated minor who is pregnant. The bill specifies additional information and supporting documentation that must be included in a physician's certificate for an emergency admission of a pregnant woman whose consumption of alcoholic beverages may be placing her unborn child at risk of FAS.

The jurisdiction of courts is expanded to include petitions under the Act for *involuntary assessment and stabilization* and petitions for *involuntary treatment* of pregnant women whose consumption of alcoholic beverages places their unborn child at risk for FAS. A petition for *involuntary assessment and stabilization* of an adult pregnant woman may be filed by the respondent's spouse, parent, guardian, or sibling if joined by a physician. The requirements of petitions for involuntary assessment and stabilization of a minor are revised to include an unemancipated minor who is pregnant. The bill specifies the content of a petition for involuntary assessment and stabilization of a pregnant woman whose consumption of alcoholic beverages may be placing her unborn child at risk of FAS.

The bill revises requirements for petitions for *involuntary treatment* under the Act to include a petition filed for involuntary treatment of an adult pregnant woman whose consumption of alcoholic beverages may be placing her unborn child at risk of FAS. The bill specifies that the spouse, parent, guardian or sibling of an adult pregnant woman whose consumption of alcoholic beverages may be placing her unborn child at risk of FAS, or any other person may file a petition for involuntary treatment. A physician must join the petition for involuntary treatment. For purposes of filing a petition for involuntary treatment of a minor, provisions relating to minors are amended to specify that "minor" includes an unemancipated minor who is pregnant. The bill specifies contents for a petition for the involuntary treatment of a pregnant woman whose consumption of alcoholic beverages may be placing her unborn child at risk of FAS under the Act.

The bill clarifies that for a petition seeking involuntary treatment for substance abuse impairment or a petition seeking involuntary treatment for a pregnant woman whose consumption of alcoholic beverages may be placing her unborn child at risk of FAS, the petitioner has the burden of proving his or her case by clear and convincing evidence.

The bill requires each vendor licensed to sell alcoholic beverages for consumption to post a health warning sign on its licensed premises where alcoholic beverages are sold, at a location in each room where alcoholic beverages are available for sale, and in a manner to be clearly visible to the patrons of the vendor. The sign must be posted in English and Spanish, must be laminated for durability and be at least 12 by 18 inches in size. The sign must contain information specified in the bill regarding fetal alcohol birth defects and warning patrons to not drink during pregnancy or before driving a car, or operating a boat or machinery. The Division of Alcoholic Beverages and Tobacco of DBPR must produce and distribute the health warning signs to vendors and collect an amount sufficient to cover the costs of printing and delivering the signs. A vendor of alcoholic beverages may not sell an alcoholic beverage unless the vendor has properly posted the health warning signs required by the bill. A vendor who fails to post the signs and sells alcoholic beverages may be liable for a second degree misdemeanor punishable by up to 60 days in jail and the imposition of a fine of up to $500.

Subject to appropriations, the bill requires the DOH to contract with the Florida Center for Child and Family Development to establish Fetal Alcohol Syndrome Disorders Diagnostic and Intervention Centers. The centers must be located in Sarasota, Hillsborough, Duval, and Miami-Dade Counties and other counties to be added as need arises and funds are sufficient for operations.

Subject to appropriations, the bill requires DOH to contract with the Florida Center for Child and Family Development to develop and conduct professional training for Healthy Families Florida, healthy start coalitions, child protective services programs, child care facilities, domestic violence centers, behavioral health care providers, educational programs, health care professionals, and other groups working with children and pregnant women.
The effective date of the bill is July 1, 2007, except for the requirement for alcoholic beverage vendors to post health-warning signs, which takes effect October 1, 2007.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The bill appears to create a class of individuals (female pregnant minor or adult woman whose consumption of alcoholic beverages may be placing her unborn child at risk of FAS) that can be civilly committed under the Act under different standards than the rest of the population. The bill may be subject to legal challenges based on constitutional right to privacy, unlawful deprivation of liberty, and equal protection grounds.[23]

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

Vendors of alcoholic beverages must pay, on a prorated basis, the costs associated with production and distribution of health warning signs required by the bill.

B. Private Sector Impact:

The bill's requirements for prevention efforts targeting fetal alcohol syndrome may result in reduced morbidity and mortality of persons due to the effects of prenatal alcohol exposure. Private-for-profit substance abuse treatment providers may likely receive additional referrals for treating pregnant women and minors if they have Medicaid or private insurance to pay for their services.

C. Government Sector Impact:

To implement the bill, the DOH estimates that it will incur costs equal to approximately $2.1 million for FY 2007-08 and $1.7 million for FY 2008-09.

To implement the bill, the DCF estimates that it will incur costs equal to approximately $15.5 million for FY 2007-08 and $15.5 million for FY 2008-09.

To implement the bill, DBPR estimates that it will incur costs equal to approximately $4.39 million for FY 2007-08 and $890,174 for FY 2008-09 which will be reimbursed by licensed vendors of alcoholic beverages.

VI. Technical Deficiencies:

On page 11, line 5, the bill should refer to a "minor who is pregnant," rather than a "minor who is a pregnant woman."

[23] *Johnson v. State*, 602 So. 2d 1288, 1290, 1297 (Fla. 1992) (reversing conviction of a woman who used cocaine during pregnancy for "deliver[ing] cocaine to a minor" and finding that application of the statute to fetuses and pregnant women violated legislative intent) and *State v. Gethers*, 585 So. 2d 1140 (Fla. Dist. Ct. App. 1991) (dismissing child abuse charges brought for prenatal drug use on the grounds that such an application would be at odds with the public policy of the state regarding child abuse and neglect, including the intent to preserve the family life of parents and children whenever possible).

VII. Related Issues:

According to DCF references are made throughout the bill to “fetal alcohol syndrome” (FAS), the worst-case effect of prenatal alcohol exposure. According to DCF fetal alcohol spectrum disorders (FASD) is a broader category and suggests the use of FASD, the more comprehensive term. The department staff notes that a woman identified as drinking heavily during the second or third trimester may have already caused the fetus to have FAS because the physical characteristic commonly associated with FAS typically occurs during the first trimester of pregnancy.

VIII. Summary of Amendments:

None.