

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** CS/HB 479 Driver License Records  
**SPONSOR(S):** Health Care Services Policy Committee; Reed  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 962

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	<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR</b>
1)	Health Care Services Policy Committee	13 Y, 0 N, As CS	Schoonover	Schoolfield
2)	Roads, Bridges & Ports Policy Committee	12 Y, 0 N	Brown	Miller
3)	Health & Family Services Policy Council		Schoonover	Gormley
4)				
5)				

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**SUMMARY ANALYSIS**

CS/HB 479 amends s. 322.142, F.S., to allow the Department of Children and Family Services (DCF) to access Department of Highway Safety and Motor Vehicles (DHSMV) image and signature data to conduct protective investigations pursuant to chapter 415, F.S., relating to adult protective services.

The bill also allows DCF to access DHSMV image and signature data for use in expediting the determination of eligibility for public assistance and for use in public assistance fraud investigations.

The bill takes effect on July 1, 2010.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

##### Background

##### *Adult Protective Investigations*

The Adult Protective Services Program, authorized by Ch. 415, F.S., and managed by the Department of Children and Family Services (DCF), is a system of social services that protects disabled or elderly persons from occurrences of abuse, neglect, and exploitation. Upon report of alleged abuse, neglect, or exploitation, an assessment of an individual's need for protective services is initiated.

The program consists of four components:

- The on-site investigation;
- Emergency services, if determined necessary;
- Referral to the local law enforcement, if appropriate; and
- Referral to local social service agencies for any identified needs.<sup>1</sup>

The Florida Abuse Hotline accepts reports related to vulnerable adults who are residents of Florida or currently located in Florida, and are:

- Believed to have been neglected or abused by a caregiver in Florida;
- Suffering from the ill effects of neglect and in need of services; or
- Being exploited by any person who stands in a position of trust or confidence, or any person who knows or should know that a vulnerable adult lacks capacity to consent and who obtains or uses, or endeavors to obtain or use their funds, assets or property.<sup>2</sup>

When a report is determined by a hotline counselor to require an immediate onsite protective investigation, the hotline counselor must immediately notify the DCF's designated district staff responsible for protective investigations. A non-emergency report that is received by the hotline

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<sup>1</sup> Department of Children and Families, CF Operating Procedure 140-2, see <http://www.dcf.state.fl.us/publications/policies.shtml#adult> (last visited February 2, 2010).

<sup>2</sup> Department of Children and Families, *Reporting Abuse of Children and Vulnerable Adults*, see [www.dcf.state.fl.us/abuse/publications/mandatedreporters.pdf](http://www.dcf.state.fl.us/abuse/publications/mandatedreporters.pdf) (2007) (last visited February 2, 2010).

counselor is forwarded to the appropriate district staff in sufficient time so that an investigation occurs within 24 hours.<sup>3</sup>

When a report is called into the Florida Abuse hotline, a protective investigation is initiated, which includes observation, interviews with the victim and witnesses, evidence gathering and collateral contacts.<sup>4</sup> Sometimes during an investigation, abused, neglected, or exploited adults are identified, but lack the capacity to consent to protective services. Additionally DCF reports that during some adult protective investigations, the subject of the investigation denies his or her identity, eluding the investigators.<sup>5</sup>

### *Public Assistance*

Public assistance includes benefits paid to individuals through temporary cash assistance, food stamps, Medicaid or optional state supplemental programs.<sup>6</sup>

### *Driver's Licenses and Identification Cards*

Applicants for driver's licenses are required by the Department of Highway Safety and Motor Vehicles (DHSMV) to provide proof of a social security card and proof of identity by showing documents including proof of citizenship and lawful non-citizenship status.<sup>7</sup> Identical requirements exist in law for state issued identification cards.<sup>8</sup> Upon receipt of the required fee, DHSMV issues to driver's license and identification card applicants, a color photographic or digital imaged driver's license bearing a full-face photograph or digital image of the licensee.<sup>9</sup>

### *Temporary Cash Assistance*

Under state law, temporary cash assistance applicants must be United States citizens, qualified noncitizens, legal residents of the state, and be able to provide a social security number for each member of the family or show proof of application for one.<sup>10</sup> The Department of Children and Family Services (DCF) conducts eligibility for, and administers the temporary cash assistance program under, Title IV-A of the Social Security Act.<sup>11,12</sup>

### *Medicaid*

Both federal and state law require applicants for Medicaid services to show proof of identity and be United States citizens, or qualified non-citizens and legal residents of Florida.<sup>13,14</sup> Additionally, federal law classifies a valid state-issued driver's license as satisfactory documentary evidence of both identity and citizenship, as long as the state issuing the license requires proof of U.S. citizenship or obtains a social security number from the applicant.<sup>15</sup> Since the applications require proof of a social security card, a valid Florida driver's license or state-issued identification card is permitted to receive Medicaid

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<sup>3</sup> s. 415.103(2), F.S.

<sup>4</sup> Department of Children and Families, *Adult Abuse, Neglect, and Exploitation*, see <http://www.dcf.state.fl.us/as/> (last visited February 2, 2010).

<sup>5</sup> Department of Children and Families, Staff Analysis HB 91 (2010), on file with the Health Care Services Policy Committee.

<sup>6</sup> s. 414.0252(10), F.S.

<sup>7</sup> s. 322.08, F.S.

<sup>8</sup> s. 322.051, F.S.

<sup>9</sup> s. 322.142(1) and s. 322.051(8), F.S.

<sup>10</sup> s. 414.095(2)(a), F.S.

<sup>11</sup> s. 414.0252(12), F.S.

<sup>12</sup> s. 414.045, F.S.

<sup>13</sup> s. 414.095(2), F.S.

<sup>14</sup> 42 U.S.C. § 1396b(i)(22); 42 C.F.R. § 435.406

<sup>15</sup> 42 U.S.C. § 1396b(x)(3)(b); 42 C.F.R. § 435.407(4)

benefits in Florida. Once Medicaid eligibility has been determined by DCF, then the Agency for Health Care Administration will administer and supervise the Medicaid benefits for the qualified applicant.<sup>16</sup>

### *Supplemental Nutrition Assistance Program (SNAP)*

Under state law, food stamps, or SNAP applicants must be United States citizens, qualified noncitizens, legal residents of the state, and be able to provide a social security number for each member of the family or show proof of application for one.<sup>17</sup> Federal law permits both United States citizens and lawful aliens to receive benefits of SNAP.<sup>18</sup> Specifically, the Code of Federal Regulations requires verification of an applicant's identity by any document which reasonably establishes identity. Driver's licenses or state issued identification cards are reasonable documents under the Code.<sup>19</sup> DCF is the designated department responsible for administering and operating the federally authorized SNAP program.<sup>20</sup>

### *Fraud*

Section 414.39(10), F.S., requires DCF to screen applicants for public assistance, including Medicaid, food stamps, and temporary cash assistance, against a fraud-prone case profile to identify cases for fraud. Additionally the Attorney General conducts a statewide program of Medicaid fraud control, which investigates both Medicaid provider and user fraud.<sup>21</sup>

### *Department of Highway and Safety Motor Vehicles (DHSMV) Database*

The DHSMV is permitted, pursuant to interagency agreements, to share information from its database, including digital images and signatures, in the following circumstances:<sup>22</sup>

- In response to law enforcement agency requests;
- With the Department of State to determine voter registration eligibility;
- With the Department of Revenue for use in establishing paternity and establishing, modifying, or enforcing support obligations;
- With the Department of Children and Families to conduct protective investigations under part III of chapter 39, and
- With the Department of Financial Services relating to unclaimed property.

Under current law, DCF is not permitted to access the DHSMV database relating to protective investigations regarding vulnerable adults. Additionally, DCF is not permitted access to verify identification and citizenship of Medicaid and SNAP applicants, resulting in a delay or lack of receipt of services.<sup>23</sup>

### **Effect of Proposed Changes**

The bill will permit a specified number of DCF employees to access the DHSMV database to conduct protective investigations under chapter 415, F.S., relating to adult protective services. Access to this system should assist investigators in the positive identification of victims and responsible persons who are subjects in investigations of abuse, neglect, or exploitation and provide quick access to the location of such persons, including vulnerable adults.

The bill will also permit, pursuant to an interagency agreement, a specified number of DCF employees to access the DHSMV database for use as verification of identity to expedite the determination of

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<sup>16</sup> s. 409.901, F.S.

<sup>17</sup> s. 414.095, F.S.

<sup>18</sup> 7 U.S.C. §2015(f); 7 C.F.R. § 273.2(f)

<sup>19</sup> 7 C.F.R. § 273.2(f)(vii)

<sup>20</sup> s. 414.31, F.S.

<sup>21</sup> s. 409.920 and s. 409.9201, F.S.

<sup>22</sup> s. 322.142(4), F.S.

<sup>23</sup> Department of Children and Families, Staff Analysis HB 479 (2010), on file with the Health Care Services Policy Committee.

eligibility for public assistance and for use in public assistance fraud investigations. The effect of the proposed changes will lessen the time it takes to determine eligibility and reduce benefit errors as a result of incorrect or fraudulent applicant identification.

**B. SECTION DIRECTORY:**

Section 1. Amends s. 322.142, relating to color photographic or digital imaged licenses.

Section 2. Provides an effective date of July 1, 2010.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**

On February 2, 2010, the Health Care Services Policy Committee adopted 2 amendments. The first amendment adopted was an amendment to the amendment. It amended s. 322.142, F.S., to allow DCF to access image and signature data of the DHSMV to conduct protective investigations pursuant to chapter 415, F.S., relating to adult protective services.

The second amendment adopted was an amendment to the bill. Not only did it contain the language in the amendment to the amendment, it also contained language that permits a specified number of DCF employees to access the DHSMV database for use as verification of identity to expedite the determination of eligibility for public assistance and for use in public assistance fraud investigations. This amendment provides sufficient access control over digital images and allows implementation without a fiscal impact.