

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

BILL: CS/SB 1278

INTRODUCER: Children, Families, and Elder Affairs Committee and Senator Simon and others

SUBJECT: Direct-support Organizations of the Department of Children and Families

DATE: April 4, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Tuszynski</u>	<u>Cox</u>	<u>CF</u>	Fav/CS
2.	<u>McVaney</u>	<u>McVaney</u>	<u>GO</u>	Favorable
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 1278 amends s. 402.57, F.S., to authorize the Department of Children and Families (DCF) to create a Direct Support Organization (DSO) for the purpose of supporting the DCF in carrying out its purposes and responsibilities. The bill details the requirements of and certain purposes for which to operate the DSO under written contract with the DCF and requires the Secretary of the DCF to appoint the board of directors according to the DSO's bylaws.

The bill allows the use of the DCF's fixed property, facilities, and "personnel services," without charge, by the DSO. The bill bars the DCF from allowing the use of any fixed property or facilities by the DSO if the DSO does not provide equal membership and employment opportunities to all persons regardless of race, color, religion, sex, age, or national origin.

The bill requires the DCF to adopt rules prescribing the procedures by which the DSO is governed and any conditions with which it must comply to use property, facilities, or personnel services of the DCF.

The bill allows the DSO to collect, expend, and provide funds for certain purposes that support the DCF. The DSO may not use funds for the purpose of lobbying. The DSO may hold any moneys in a separate depository account in the name of the DSO, subject to the provisions of the contract with the DCF. The DSO must provide an annual financial audit in accordance with s. 215.981, F.S. The bill also provides for the repeal of the subsection on October 1, 2028, unless reviewed and saved from repeal by the Legislature.

The bill does not appear to have a fiscal impact on the government or private sector.

The bill takes effect upon becoming law.

II. Present Situation:

Citizen Support Organizations and Direct-Support Organizations

Citizen support organizations (CSOs) and direct-support organizations (DSOs) are statutorily created private entities that are generally required to be non-profit corporations, and are authorized to carry out specific tasks in support of public entities or public causes. The functions and purpose of a CSO or DSO are prescribed by its enacting statute and, for most, by a written contract with the agency the CSO or DSO was created to support.

CSO and DSO Transparency and Reporting Requirements

In 2014, the Legislature created s. 20.058, F.S., establishing a comprehensive set of transparency and reporting requirements for CSOs and DSOs that are created or authorized pursuant to law or executive order and created, approved, or administered by a state agency.¹ Specifically, the law requires each CSO and DSO to submit annually, by August 1, the following information related to its organization, mission, and finances to the agency it supports:²

- The name, mailing address, telephone number, and website address of the organization;
- The statutory authority or executive order that created the organization;
- A brief description of the mission of, and results obtained by, the organization;
- A brief description of the organization's plans for the next three fiscal years;
- A copy of the organization's code of ethics; and
- A copy of the organization's most recent federal Internal Revenue Service (IRS) Return of Organization Exempt from Income Tax form (Form 990).³

Each agency receiving the above information must make the information available to the public through the agency's website. If the CSO or DSO maintains a website, the agency's website must provide a link to the website of the CSO or DSO.⁴ Additionally, any contract between an agency and a CSO or DSO must be contingent upon the CSO or DSO submitting and posting the information.⁵ If a CSO or DSO fails to submit the required information for two consecutive years, the agency must terminate the contract with the CSO or DSO.⁶ The contract must also include a provision for ending operations and returning state-issued funds to the state if the authorizing statute is repealed, the contract is terminated, or the organization is dissolved.⁷

¹ Chapter 2014-96, L.O.F.

² Section 20.058(1), F.S.

³ The IRS Form 990 is an annual information return required to be filed with the IRS by most organizations exempt from federal income tax under 26 U.S.C. 501.

⁴ Section 20.058(2), F.S.

⁵ Section 20.058(4), F.S.

⁶ *Id.*

⁷ *Id.*

By August 15 of each year, the agency must report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Office of Program Policy Analysis and Government Accountability (OPPAGA) the information provided by the CSO or DSO.⁸ The report must also include a recommendation by the agency, with supporting rationale, to continue, terminate, or modify the agency's association with each CSO or DSO.⁹

Lastly, a law creating or authorizing the creation of a CSO or DSO must state that the creation or authorization for the CSO or DSO is repealed on October 1 of the fifth year after enactment, unless reviewed and saved from repeal by the Legislature.¹⁰

CSO and DSO Audit Requirements

Section 215.981, F.S., requires each CSO and DSO created or authorized pursuant to law with annual expenditures in excess of \$100,000 to provide for an annual financial audit of its accounts and records.¹¹ The audit must be conducted by an independent certified public accountant in accordance with rules adopted by the Auditor General and the state agency that created, approved, or administers the CSO or DSO. The audit report must be submitted within nine months after the end of the fiscal year to the Auditor General and to the state agency the CSO or DSO supports.

Additionally, the Auditor General may conduct audits or other engagements of the accounts and records of the CSO or DSO, pursuant to his or her own authority, or at the direction of the Legislative Auditing Committee.¹² The Auditor General is authorized to require and receive any records from the CSO or DSO, or its independent auditor.¹³

CSO and DSO Ethics Code Requirement

Section 112.3251, F.S., requires a CSO or DSO created or authorized pursuant to law to adopt its own ethics code. The ethics code must contain the specified standards of conduct and disclosures provided in ss. 112.313 and 112.3143(2), F.S. A CSO or DSO may adopt additional or more stringent standards of conduct and disclosure requirements and must conspicuously post its code of ethics on its website.¹⁴

The Department of Children and Families

The Department of Children and Families (DCF) is created and its organizational structure established in s. 20.19, F.S. The DCF has a statutorily created mission to work in partnership with local communities to protect the vulnerable, promote strong and economically self-

⁸ Section 20.058(3), F.S.

⁹ *Id.*

¹⁰ Section 20.058(5), F.S.

¹¹ The independent audit requirement does not apply to a CSO or DSO for a university, district board of trustees of a community college, or district school board. Additionally, the expenditure threshold for an independent audit is \$300,000 for a CSO or DSO for the Department of Environmental Protection and the Department of Agriculture and Consumer Services.

¹² Section 11.45(3)(d), F.S.

¹³ *Id.*

¹⁴ Section 112.3251, F.S.

sufficient families, and advance personal and family recovery and resiliency.¹⁵ The DCF must provide services relating to:

- Adult Protection.
- Child care regulation.
- Child welfare.
- Domestic violence.
- Economic self-sufficiency.
- Homelessness.
- Mental health.
- Refugees.
- Substance abuse.¹⁶

The DCF states its vision is to empower people with complex and varied needs to achieve the best outcomes for themselves and their families and deliver world class and continuously improving service focused on providing the people it serves with the level and quality that the DCF would demand and expect for its own families.¹⁷

Direct Support Organization for the Children and Youth Cabinet

In 2007, the Legislature created the Children and Youth Cabinet (Cabinet).¹⁸ The Cabinet is charged with promoting and implementing collaboration, creativity, increased efficiency, information sharing and improved service delivery between and within state agencies and organizations. As directed by statute, in 2007 the Cabinet developed a shared vision and a Strategic Plan to guide the Cabinet in designing and implementing measurable outcomes and actions that promote collaboration and information sharing.¹⁹ The stated mission of the Cabinet is to ensure that the public policy of Florida relating to children and youth promotes interdepartmental collaboration and program implementation in order for services designed for children and youth to be planned, managed and delivered in a holistic and integrated manner to improve the self-sufficiency, safety, economic stability, health, and quality of life of all children and youth in Florida.²⁰

Section 402.57, F.S., requires the DCF to establish a DSO to assist the Cabinet in carrying out its purpose and responsibilities. The sole purpose of the DSO is to support the Cabinet, and must be:

- A Florida not-for-profit corporation.
- Organized to make expenditures to or for the Cabinet.
- Approved by the DCF to be operating for the benefit of and in a manner consistent with the goals of the Cabinet and in the best interest of the state.

¹⁵ Section 20.19(1), F.S.

¹⁶ Section 20.19(4), F.S.

¹⁷ The Department of Children and Families, *Mission, Vision and Values*, available at <https://www.myflfamilies.com/about/additional-services-offices/office-secretary/mission-vision-and-values> (last visited March 13, 2023).

¹⁸ Chapter 2007-151, s. 1, L.O.F., codified as s. 402.56, F.S.

¹⁹ Governor Ron DeSantis – 46th Governor of Florida, *Florida Children and Youth Cabinet*, available at <https://www.flgov.com/childrens-cabinet/> (last visited March 13, 2023).

²⁰ *Id.*

The DCF does not have DSO or CSO enacting language other than the language specific to the Cabinet.

III. Effect of Proposed Changes:

The bill amends s. 402.57, F.S., to authorize DCF to create a DSO with the sole purpose to support the DCF in carrying out its purposes and responsibilities. The DSO must be:

- A Florida not-for-profit corporation.
- Organized and operated to:
 - Conduct programs and activities;
 - Raise funds;
 - Request and receive grants, gifts, and bequests of moneys;
 - Acquire, receive, hold, invest, and administer securities, funds, objects of value or other real or personal property; and
 - Make expenditures to or for the direct or indirect benefit of the DCF and the individuals it serves.
- Determined by the DCF to be operating in a manner consistent with the goals and purposes of the DCF, the best interest of Florida, and the needs of children and adults served by the DCF.

The bill requires the DSO to operate under a written contract with the DCF that provides for all of the following:

- Approval of articles of incorporation and bylaws by the DCF.
- Submission of an annual budget for approval by the DCF.
- Annual certification by the DCF that the DSO is in compliance with the contract and operating in a manner consistent with the goals and purposes of the DCF and in the best interest of the state. This certification must be reported in the official minutes of a meeting of the DSO.
- Reversion of moneys and property held in trust by the DSO to the state if the DCF ceases to exist or to the DCF if the DSO is no longer approved to operate or ceases to exist.
- That the fiscal year for the DSO runs from July 1 of each year through June 30 of the following year.
- Disclosure of material provisions of the contract and the distinction between the DCF and the DSO to donors, including on all promotional and fundraising publications.

The bill requires the Secretary of the DCF to appoint the board of directors of the DSO according to the DSO's bylaws.

The bill provides that the DCF, without charge, may allow appropriate use of fixed property or facilities of the DCF by the DSO. The bill allows the DCF to prescribe conditions the DSO must meet to use fixed property or facilities and bars the DCF from allowing the use of any fixed property or facilities by the DSO if the DSO does not provide equal membership and employment opportunities to all persons regardless of race, color, religion, sex, age, or national origin.

The bill also provides that the DCF, without charge, may allow appropriate use of “personnel services”²¹ of the DCF by the DSO.

The bill requires the DCF to adopt rules prescribing the procedures by which the DSO is governed and any conditions with which it must comply to use property, facilities, or personnel services of the DCF.

The bill allows the DSO to collect, expend, and provide funds to address gaps in services for the children and adults served by the DCF; develop, implement, and operate targeted prevention efforts; and provide services and activities that support the goals of the DCF. The DSO may not use funds for the purpose of lobbying. The DSO may hold any moneys in a separate depository account in the name of the DSO, subject to the provisions of the contract with the DCF. The DSO must provide an annual financial audit in accordance with s. 215.981, F.S.

The bill also provides for the repeal of the enacting subsection on October 1, 2028, unless reviewed and saved from repeal by the Legislature.

The bill takes effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties’ or municipalities’ ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

²¹ The bill provides that “personnel services” includes full-time or part-time personnel, as well as payroll processing services.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill is not expected to impact state or local government revenues and expenditures.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 402.57 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Children, Families, and Elder Affairs on March 20, 2023:

The Committee Substitute made a clarifying non-substantive technical change to the provision related to the specified use of certain facilities and services of the DCF and the rulemaking authority granted to DCF.

B. Amendments:

None.