

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 Military and Veterans Affairs, Space, and Domestic Security

BILL: SB 824

INTRODUCER: Senator Collins

SUBJECT: Veterans' Services and Recognition

DATE: March 28, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brown</u>	<u>Proctor</u>	<u>MS</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>AHS</u>	_____
3.	_____	_____	<u>FP</u>	_____

I. Summary:

SB 824 establishes the Division of Long-term Care in the Department of Veterans' Affairs (department) and creates the Veterans' Adult Day Health Care of Florida Act to provide uniform basic standards for the operation of veterans' adult day health care programs for eligible veterans in need of services. The act provides:

- For appointment of an operator by the Executive Director (director) of the department;
- Eligibility requirements for a veteran to participate in the program;
- Priority order for admission and authorizes a self-paying veteran to participate;
- That the program is subject to audit or inspection by the Auditor General or the Office of Program Policy Analysis and Government Accountability; and
- That unless the state's standards are more restrictive, the standards to be applied by the department to regulate program operations are those prescribed by the United States Department of Veterans Affairs (VA).

The bill also designates the week of November 11 as Veterans Week. The Governor may annually issue a proclamation designating Veterans Week. The bill encourages public officials, schools, private organizations, and all residents to commemorate the week, honoring those who served in times of war and peace.

In addition, the bill revises the requirements for employment as a veteran service officer to allow a veteran who served in the active military, naval, or air service and was discharged or released under honorable conditions, or later received an upgraded honorable discharge to qualify.

The bill may have an indeterminate negative fiscal impact on the department. See Section V. Fiscal Impact Statement.

The bill takes effect July 1, 2023.

II. Present Situation:

Definition of a Veteran

A veteran, as referenced in the bill, is a person who served in the active military, naval, or air service and who was discharged or released under honorable conditions only or who later received an upgraded discharge under honorable conditions.¹

Department of Veterans' Affairs

The department is the state point of entry for Florida's 1.5 million veterans, the nation's third largest veteran population.² The department provides statewide outreach to connect veterans with earned federal and state services, benefits, and support.³ The department also operates nine state veterans' homes, one of which is an assisted living facility, and the others nursing homes.⁴

The department oversees and operates the following:

- The Division of Administration and Public Information and its Bureau of Information and Research; and
- The Division of Veterans' Benefits and Assistance and the following bureaus within the division:
 - Bureau of Veteran Claims Services;
 - Bureau of Veteran Field Services; and
 - Bureau of State Approving for Veterans' Training.⁵

The department also provides veterans' claims examiners to assist veterans in securing earned services, benefits, and support. In 2022, veterans' claims examiners assisted more than 272,000 veterans. In addition, claims examiners have processed nearly 35,000 new claims on behalf of Florida veterans, and helped recover more than \$194 million in retroactive benefits for Florida veterans and their families.⁶

County and City Veteran Service Officers

Each board of county commissioners may approve the hiring of a county veteran service officer.⁷ Likewise, the governing body of a city may employ a city veteran service officer.⁸ To qualify, an applicant must be a veteran who:

- Served in the United States Armed Forces during a period of war;
- Served at least 18 months' active duty; and

¹ Section 1.01(14), F.S.

² Fla. Dep't of Veterans' Affairs, Leadership, *Florida Department of Veterans' Affairs – Our Vision and Mission*, available at <https://www.floridavets.org/leadership/> (last visited Mar. 17, 2023).

³ *Id.*

⁴ *Id.* The assisted living facility, otherwise known as a state veterans' domiciliary home, is located in Lake City, Florida. The nursing homes are located in the cities of Daytona Beach, Land O'Lakes, Pembroke Pines, Panama City, Port Charlotte, St. Augustine, Port St. Lucie, and Orlando.

⁵ Section 20.37(2), F.S.

⁶ Florida Dep't of Veterans Affairs, *supra* note 2.

⁷ Section 292.11(1), F.S.

⁸ *Id.*

- Was discharged under honorable conditions.⁹

A surviving spouse may instead be hired if the veteran spouse meets those qualifications.¹⁰

Alternate qualification for employment as a veteran service officer is available to an honorably discharged wartime veteran who:

- Was discharged for service-connected or aggravated medical reasons before serving 18 months of active duty;
- Completed a tour of duty other than active duty for training, regardless of the length of the tour; or
- Satisfied his or her military obligation in a manner other than active duty for training or reserve duty.¹¹

The applicant must additionally have a minimum of a 2-year degree from an accredited institute of higher education or a high school degree or its equivalent and 4 years of administrative experience.¹²

The department provides the training program for county and city veteran service officers,¹³ and every county or city veteran service officer must attend training and successfully complete a test administered by the department. In addition, the department establishes periodic training refresher courses, and completion of these courses is a condition of continuing employment.¹⁴

Adult Day Care Centers

Adult day care centers provide therapeutic services and activities for adults in a noninstitutional setting.¹⁵ Participants may utilize a variety of services offered during any part of a day totaling less than 24 hours.¹⁶ Basic services provided by adult day care centers include leisure activities, self-care training, nutritional services, and respite care.¹⁷ These facilities are licensed by the Agency for Health Care Administration.¹⁸ However, facilities that operate under the federal government or any agency thereof are exempt from current state law on adult day care centers.¹⁹ The VA's Adult Day Health Care Program (Program) was established by the VA with the goal of allowing veterans to have a place during the day for social activities, peer support, companionship, and recreation.²⁰ The Program is intended for veterans who need help with activities of daily living, those who are isolated, or whose caregiver is experiencing burden.²¹

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ Section 291.11(4), F.S.

¹⁴ *Id.*

¹⁵ Section 429.901(3), F.S.

¹⁶ *Id.* and s. 429.905(2), F.S.

¹⁷ Section 429.901(1) and (3), F.S.

¹⁸ Section 429.903, F.S.

¹⁹ Section 429.905, F.S.

²⁰ U.S. Dep't. of Veterans Affairs, *Adult Day Health Care*, available at https://www.va.gov/geriatrics/pages/Adult_Day_Health_Care.asp (last visited Mar. 20, 2023).

²¹ *Id.*

Health services such as care from nurses, therapists, social workers, and others may also be provided. The Program may be provided at VA medical centers, state Veterans Homes, or through community organizations.²² To receive a federal grant or grant funding for an adult day health care program, the state must meet the following specific federal requirements:

- If an adult day health care program is located within a nursing home, domiciliary, or other care facility, the adult health care program must have its own separate designated space during operational hours.
- The indoor space for the adult day health care program must be at least 100 sq. ft. per participant including office space for staff, and must be 60 sq. ft. per participant excluding office space for staff.
- Each program will need to design and partition its space to meet its own needs, but must make available certain federally mandated functional areas.²³
- Furnishings must be available for all participants, including functional furniture appropriate to the participants' needs.²⁴

Legal Holidays and Observances

Examples of legal holidays are New Year's Day (January 1), Memorial Day (the last Monday in May), Independence Day (July 4), Labor Day (the first Monday in September), Veterans' Day (November 11), Thanksgiving Day (the fourth Thursday in November), and Christmas Day (December 25).²⁵

In addition to legal holidays, special observances are recognized and observed by the state. Special observance days include Law Enforcement Memorial Day²⁶, Arbor Day²⁷, and Law Day and Law Week²⁸.

III. Effect of Proposed Changes:

SB 824 addresses veterans' services and recognition.

Division of Long-term Care

The bill amends s. 20.37, F.S., to establish in the Department of Veterans' Affairs the Division of Long-term Care.

Veteran Service Officers

The bill amends s. 292.11, F.S., to revise the qualifications for employment as a city or county veteran service officer. Pursuant to the bill, a veteran can qualify as a veteran service officer if the veteran served in the active military, naval, or air service and was discharged or released under honorable conditions, or later received an upgraded discharge under honorable conditions.

²² *Id.*

²³ For the list of federally mandated functional areas, see 38 C.F.R. s. 59.160(c)(1)-(11).

²⁴ 38 C.F.R. s. 59.160.

²⁵ Section 683.01, F.S.

²⁶ Section 683.115, F.S.

²⁷ Section 683.04, F.S.

²⁸ Section 683.22, F.S.

The education requirement is unchanged.

Veterans' Adult Day Health Care of Florida Act

The bill creates ss. 296.42 through 296.49, F.S., to create the Veterans' Adult Day Health Care of Florida Act. The act's purpose is to provide uniform basic standards for the operation of veterans' adult day health care or adult day care programs for eligible veterans in need of services. A program is a licensed facility operated by the department as an adult day care center.

Eligibility of a Veteran

The program is available to a veteran as defined in s. 1.01(14), F.S., or a veteran who served in eligible peacetime service, and who must:

- Be in need of adult day health care;
- Be a resident of the state at the time of application;
- Not owe money to the department for services rendered during a previous stay at a department facility;
- Have applied for all financial assistance reasonably available through governmental resources; and
- Have been approved as eligible for care and treatment by the VA.

An operator may waive the residency requirement for an applicant in the limited circumstance that the veteran is a disaster evacuee of a state under a declared state of emergency and who otherwise qualifies.

Admittance priority must be given to eligible veterans in the following order:

- An eligible veteran who is a state resident.
- An eligible veteran who has a service-connected disability as determined by the VA, or who was discharged or released from service for a disability incurred or aggravated in the line of duty, and the disability is the basis for need of adult day health care.
- An eligible veteran who has a non-service-connected disability and is unable to defray the expense of adult day health care as provided under oath by a notary or other officer authorized to administer an oath.

If there is room, an operator may admit to the program an otherwise eligible veteran who has the funds to pay the full cost of his or her support services, with cost and method of collection to be periodically assessed by the operator.

Facility Administrator

The director of the department will appoint an operator, a contractor, or an administrator of a veterans' nursing home or assisted living facility serving as operator to oversee the program at an adult day care facility or adult day care center.

If a contractor is appointed, the contractor may be from an entity that is for profit or nonprofit.

The administrator of a veterans' nursing home or the veterans' domiciliary may serve as the operator if the facility is colocated at an existing veterans' nursing home or assisted living facility.

Employment

Unless the operator is assigned to a contractor, the position of operator is classified as Selected Exempt Service and employees of the program are state employees subject to classification by the department in state law.

Unless the operator is assigned to a contractor, the director shall give veterans preference in selecting an operator.

Nondiscrimination Policy

The program will admit state residents regardless of race, age, sex, creed, religion, national origin, or anything else that would create a practice of discrimination. However, consideration of an applicant's veteran status does not constitute discrimination.

Program Audit and Inspection

The program is subject at any time to audit and inspection by the Auditor General and the Office of Program Policy Analysis and Government Accountability, the department, and the VA, and any other audit or inspection required in law to maintain appropriate standards.

The standards that the department must use to regulate the operation of the program are those prescribed by the VA, unless the state's standards are more restrictive.

Rulemaking Authority

The operator and director shall adopt rules necessary to properly administer the program, including rules for preservation of order and enforcement of discipline, which may include dismissal from the program, subject to approval by the director. Rules will conform as nearly as possible to rules and regulations for comparable facilities of the VA.

Veterans Week

The bill creates s. 683.1475, F.S., to designate the week of November 11 of each year as "Veterans Week." The bill does not specify how the week will start. The Governor may annually issue a proclamation designating this week as Veterans Week. Public officials, schools, private organizations, and all residents are encouraged to commemorate the week and honor those who served in times of war and peace.

The bill takes effect July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

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.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

A veteran may be able to stay at home longer, with the provision of long-term care and also access to an adult day care center. These services will give a family caretaker respite.

C. Government Sector Impact:

The bill may have an indeterminate negative fiscal impact on the department. The bill creates the Division of Long-term Care within the department, and establishes the Veterans' Adult Day Health Care of Florida Act to provide veterans with adult day care services. According to the department, the costs of staffing the new division can be absorbed within existing resources.²⁹

The adult day care services program is expected to be revenue generating but may require upfront funding to cover costs associated with renovations of existing homes and equipment.

VI. Technical Deficiencies:

Section 3 of the bill, creating s. 296.45(2), F.S., appears to provide for joint rulemaking authority by the director and the operator of the program, even if the operator is a contractor. It is recommended that this provision be amended and rulemaking authority be granted solely to the department.

²⁹ Florida Dep't of Veterans Affairs, *2023 Agency Legislative Bill Analysis, SB 824* (July 1, 2023) (on file with the Senate Committee on Military and Veterans Affairs, Space, and Domestic Security).

Section 4 of the bill provides a Veterans Week as taking place “the week of November 11” but does not specify how the week will start. It is recommended that this be specified in the bill.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.37 and 292.11. This bill creates the following sections of the Florida Statutes: 296.42, 296.43, 296.44, 296.45, 296.46, 296.47, 296.48, 296.49, and 683.1475.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.