

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**CHILDREN, FAMILIES, AND ELDER AFFAIRS**  
**Senator Storms, Chair**  
**Senator Rich, Vice Chair**

**MEETING DATE:** Thursday, January 19, 2012

**TIME:** 10:15 a.m.—12:15 p.m.

**PLACE:** James E. "Jim" King, Jr. Committee Room, 401 Senate Office Building

**MEMBERS:** Senator Storms, Chair; Senator Rich, Vice Chair; Senators Detert, Dockery, Gibson, and Latvala

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
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Consideration of proposed committee bill:

1	<b>SPB 7162</b>	Sexually Violent Predators; Clarifying the definition of the term "sexually violent offense" to include only a felony criminal act that has been determined beyond a reasonable doubt to have been sexually motivated; requiring that the Department of Children and Family Services give priority to the assessment of persons who will be released from total confinement at the earliest date under certain circumstances; revising the period within which the department's multidisciplinary team is required to provide an assessment to the state attorney; deleting a provision relating to the deportation of a sexually violent predator, etc.	Submitted as Committee Bill
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Consideration of proposed committee bill:

2	<b>SPB 7164</b>	Substance Abuse and Mental Health Services; Revising legislative findings regarding the management structure of entities that provide behavioral health treatment and prevention services; requiring the Department of Children and Family Services to negotiate a reasonable and appropriate administrative cost rate for the system of behavioral health services with community-based managing entities; requiring that mental health or substance abuse providers currently under contract with the department be offered a contract by the managing entity for 1 year; revising the core functions to be performed by the managing entity, etc.	Submitted as Committee Bill
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Consideration of proposed committee bill:

**COMMITTEE MEETING EXPANDED AGENDA**

Children, Families, and Elder Affairs

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	<b>SPB 7166</b>	Child Protection; Revising the definitions of the term “abandoned” or “abandonment,” “institutional child abuse or neglect,” and “abandons the child within the context of harm”; revising provisions relating to criminal history records check on persons being considered for placement of a child; requiring a records check through the State Automated Child Welfare Information System; requiring that a protective investigation must include an interview with the child’s parent or legal guardian; requiring a home study report if a child has been removed from the home and will be remaining with a parent, etc.	Submitted as Committee Bill
Consideration of proposed committee bill:			
4	<b>SPB 7168</b>	Domestic Violence; Revising provisions relating to certification of domestic violence centers; providing specified additional duties for and authority of the Florida Coalition Against Domestic Violence; revising provisions relating to certification of domestic violence centers; requiring a demonstration of need for certification of a new domestic violence center; revising provisions relating to expiration of a center’s annual certificate, etc.	Submitted as Committee Bill
Consideration of proposed committee bill:			
5	<b>SPB 7048</b>	Department of Children and Family Services; Changing the name of the department to the “Department of Children and Families”; requiring that the department be geographically organized into circuits and regions; revising the services provided by the department and abolishing the program offices; providing for community alliances to be established at the discretion of the department, rather than required; amending provisions relating to the State Office on Homelessness within the Department of Children and Families, etc.	Submitted as Committee Bill
Consideration of proposed committee bill (Interim Project 2012-128 - Review Regulatory Oversight of Assisted Living Facilities in Florida):			

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
6	<b>SPB 7176</b>	Assisted Living Facilities; Requiring that the case manager assigned to a mental health resident of an assisted living facility that holds a limited mental health license keep a record of the date and time of face-to-face interactions with the mental health resident and make the record available to the Department of Children and Family Services for inspection; requiring that an assisted living facility comply with notice of relocation or termination of residency from the facility when a decision is made to relocate or terminate the residency of a resident; requiring that a newly hired employee or administrator of an assisted living facility attend a preservice orientation provided by the assisted living facility; prohibiting an assisted living facility from operating unless it is under the management of an administrator who holds a valid license or provisional license, etc.	Submitted as Committee Bill
<b>(Preliminary Draft Available - final draft will be made available at least 48 hours prior to the meeting)</b>			
7	<b>SB 1130</b> Storms (Similar CS/H 531)	Homelessness; Requiring the motor vehicle registration form and registration renewal form, the driver license application form, and the driver license application form for renewal issuance or renewal extension to include an option to make a voluntary contribution to aid the homeless; establishing a homelessness prevention grant program; requiring lead agencies for local homeless assistance continuums of care to track, monitor, and report on assisted families for a specified period of time; limiting the percentage of funding that lead agencies may spend on administrative costs, etc.  CF 01/19/2012 Fav/1 Amendment TR BC	Fav/1 Amendment ( Yeas 6 Nays 0

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	<b>SB 1342</b> Storms (Similar H 935)	Child Support Enforcement; Providing that, for IV-D cases, an affidavit filed with a child support depository requesting that child support payments be made through the depository need not allege a default in support payments; requiring the Department of Highway Safety and Motor Vehicles to suspend an obligor's driver license unless the obligor begins paying child support by income deduction; requiring the Department of Highway Safety and Motor Vehicles to reinstate an obligor's driving privileges if the obligor is paying his or her support obligation by income deduction order; adding a caregiver to the list of persons who may provide a statement regarding a putative father, etc.  CF 01/19/2012 Favorable TR BI BC	Favorable Yeas 6 Nays 0
9	Other Related Meeting Documents		

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**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 Children, Families, and Elder Affairs Committee

BILL: SPB 7162

INTRODUCER: Children, Families, and Elder Affairs Committee

SUBJECT: Sexually Violent Predators

DATE: January 18, 2012      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Farmer	Farmer		<b>Pre-meeting</b>
2.				
3.				
4.				
5.				
6.				

**I. Summary:**

This bill amends the Florida law related to the Involuntary Civil Commitment of Sexually Violent Predators (“Jimmy Ryce Act”) by:

- Revising the definition of the term “sexually violent offense” to include only felony offenses;
- Requiring the Department of Children and Families (department) to prioritize written assessments and recommendations of offenders who will be released from total confinement within one year;
- Extending the deadline in which the department’s multidisciplinary team is required to complete its assessment to the state attorney; and for the state attorney to file a petition to the circuit court alleging that a person is a sexually violent predator;
- Removing language related to deportation of a sexually violent predator; and
- Prohibiting the introduction, attempted introduction, or removal of certain items classified as contraband into any Jimmy Ryce facility;
- Subjecting an individual or vehicle entering the grounds of any Jimmy Ryce facility under these provisions to reasonable search and seizure of any contraband materials introduced into or upon the grounds of such facility for purposes of enforcement; and
- Creating a third-degree felony for the commission of such acts.

The bill provides for an effective date of July 1, 2012.

This bill substantially amends the following sections of the Florida Statutes: 394.912, 394.913, 394.9135, and 394.917. The bill creates 394.933, Florida Statutes.

## II. Present Situation:

### Sexually Violent Predators<sup>1</sup>

A sexually violent predator is a person who has been convicted of a sexually violent offense and who also suffers from a mental abnormality or personality disorder that makes him or her likely to engage in acts of sexual violence if not confined in a secure facility for long-term control, care, and treatment.<sup>2</sup> The Involuntary Civil Commitment of Sexually Violent Predators Act, also known as the Jimmy Ryce Act (Act), was enacted in 1998 to address the treatment needs of these offenders.<sup>3</sup> The Act creates a civil commitment process for sexually violent predators that is similar to Baker Act procedures for involuntary commitment and treatment of mentally ill persons.

Referring agencies identify offenders who have been convicted of specified sexually violent offenses and notify the department's Sexually Violent Predator Program and the state attorney who prosecuted the offender. The Department of Corrections (DOC) makes the majority of these referrals, with others coming from the Department of Juvenile Justice (DJJ) and the department itself.

After a referral is made, a clinical specialist reviews information provided by the referring agency and gathers any additional information that is needed to complete the case file. Two licensed psychologists employed by the department independently screen the case file to determine if the offender meets the statutory sexually violent predator criteria. If the department psychologists find that the offender meets the criteria, an independent, contracted evaluator also reviews the case file and provides a recommendation to the department.

A multidisciplinary team that includes at a minimum two persons who are either a licensed psychiatrist or a licensed psychologist reviews the evaluation reports. From this review, they render an opinion as to whether the offender meets the sexually violent predator criteria. The department must then provide a written assessment and written recommendation to the state attorney within 180 days of receiving notice from the referring agency. The recommendation must include the multidisciplinary team's report.<sup>4</sup>

The timeframes for this process are drastically accelerated when a person who has been convicted of a sexually violent offense is to be immediately released for some reason. A person who has been released ahead of scheduled release is transferred to the custody of the department by the referring agency. The multidisciplinary team has 72 hours after the transfer to provide its

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<sup>1</sup> Much of the information in this section was derived from the professional staff analysis for CS/SB 1314 by the Senate Committee on Criminal Justice (April 14, 2010), available at <http://archive.flSenate.gov/data/session/2010/Senate/bills/analysis/pdf/2010s1314.ju.pdf>

<sup>2</sup> Section 394.912, F.S.

<sup>3</sup> Sections 394.910-394.932, F.S.

<sup>4</sup> Section 394.913(3), F.S.

written assessment and recommendation to the state attorney. In turn, the state attorney has 48 hours to petition the court for a determination that the person is a sexually violent predator.<sup>5</sup>

After receiving the department's assessment and recommendation, the state attorney can initiate commitment proceedings by filing a probable cause petition seeking a determination that the offender meets statutory criteria to be a sexually violent predator.<sup>6</sup> There is no prescribed time limit for filing other than in an immediate release situation. If the judge finds that the petition sets forth probable cause, a civil trial must be conducted within 30 days. A decision that an offender is a sexually violent predator must be made by the judge or a unanimous jury based upon clear and convincing evidence.<sup>7</sup>

An offender who is found to be a sexually violent predator is committed to the department's custody upon completion of his or her criminal sentence and transferred to the Florida Civil Commitment Center in Arcadia. If the commitment process is not completed prior to the end of an offender's prison sentence, the offender is detained by court order and transferred to the commitment center to await the outcome of commitment proceedings. On June 30, 2011, the commitment center housed 677 civilly committed predators and 147 detainees awaiting completion of commitment procedures.<sup>8</sup>

Sexually violent predators who are committed to the state under the Jimmy Ryce Act are detained at the commitment center until the court determines that they are no longer a threat to public safety. The department currently contracts with GEO Group, Inc., to operate the center and provide all treatment and security services. The treatment program consists of four levels of cognitive behavior modification and takes a minimum of six years to complete, with progress assessed annually by program staff.<sup>9</sup>

### **Federal Deportation Detainers**

According to the department, Florida law does not permit the courts to allow disposition of federal deportation detainers before proceeding with commitment. This situation creates the possibility that the state must bear the expense of providing long-term care and treatment to undocumented persons who can be safely deported.<sup>10</sup>

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<sup>5</sup> Section 394.9135, F.S.

<sup>6</sup> Section 394.914, F.S.

<sup>7</sup> Section 394.916 and 394.917, F.S.

<sup>8</sup> Criminal Justice Estimating Conference, *Involuntary Civil Commitment of Sexually Violent Predators – History and Forecast*, (December 14, 2011), available at <http://edr.state.fl.us/Content/conferences/criminaljustice/workpapers.pdf> (last visited January 17, 2012)

<sup>9</sup> Office of Program Policy Analysis & Government Accountability, Florida Legislature, *The Delays in Screening Sexually Violent Predators Increase Costs; Treatment Facility Security Enhanced*, Report No. 08-10, p.2.(February 2008), <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/0810rpt.pdf> (last visited Jan. 18, 2012)

<sup>10</sup> Department of Children and Families, *Staff Analysis and Economic Impact for HB 1097* (January 4, 2012), p. 2, (on file with the Senate Committee on Children, Families, and Elder Affairs). A department analysis was not available for this SPB at the time the Senate Committee analysis was completed.

## Contraband

According to the department, chapter 394, Part V., does not currently criminalize the unauthorized introduction or removal of dangerous contraband from the Florida Civil Commitment Center. The facility has instituted its own operating procedures to prohibit such activities, but these policies do not have the same deterrent effect achieved by the possibility of criminal sanction. Statutes governing correctional and state hospital settings already include contraband provisions.<sup>11</sup>

### III. Effect of Proposed Changes:

SPB 7162 amends s. 394.912, F.S., relating to definitions. The term “sexually violent offense”, for purposes of the Jimmy Ryce Act, is limited to felony offenses only.

The bill amends s. 394.913, F.S., to allow the Department of Children and Families more flexibility in prioritizing its cases. These cases will be prioritized based upon receipt of a notification. This will allow the department to give priority to evaluation of the cases of persons who are within 365 days of release and for whom the written assessment and recommendation has not been completed.

The bill amends s. 394.9135, F.S. to provide for an extension of the deadlines for the department to provide its written assessment and recommendation to the state attorney and for the state attorney to file a commitment petition. The bill provides that if the 72-hour deadline for providing the recommendation to the state attorney falls after 5 p.m. on a work day or during a weekend or holiday, the recommendation may be provided during the next work day. Similarly, if the state attorney’s 48-hour petition filing deadline falls on after 5 p.m. or on a weekend or holiday, the commitment petition may be filed during the next work day.<sup>12</sup>

Use of the term “work day” could create some confusion in the application of the timeframes. Although it appears that the intent is to suggest after 5 p.m. on a weekday, some individuals “work” on Saturday or Sunday. The Legislature may wish to use another term such as “weekday.”<sup>13</sup>

The bill creates s. 394.933, F.S. to prohibit the introduction or removal of certain articles to or from a Jimmy Ryce facility; and to impose penalties for the commission of such acts. Specifically, the bill provides that, unless authorized by law or as specifically authorized by the person in charge of a Jimmy Ryce facility, a person is prohibited from introducing into, or take or attempt to take or send any of the following articles which are declared to be contraband:

- An intoxicating beverage or beverage that causes or may cause an intoxicating effect;
- A controlled substance as defined by chapter 893, F.S.;<sup>14</sup>
- A firearm or deadly weapon; or

<sup>11</sup> *id.*

<sup>12</sup> CS/SB 1314, (2010 Reg. Session)

<sup>13</sup> *id.*

<sup>14</sup> Chapter 893, F.S., includes numerous controlled substances that are listed in Schedules I, II, III, IV, and V.

- Any other item designated by written facility policy to be hazardous to the welfare of clients or staff or to the operation of the facility.

This section also prohibits a person from transmitting to, attempting to transmit to, or attempting to cause to be transmitted to or received by any client of any facility under the supervision or control of the department or agency, any article or thing declared to be contraband at any place that is outside the grounds of such facility. An exception is made if the action is authorized by law or specifically authorized by the person in charge of the facility.

In addition, the bill subjects an individual or vehicle entering the grounds of any Jimmy Ryce facility under these provisions to reasonable search and seizure of any contraband materials introduced into or upon the grounds of such facility for purposes of enforcement. The bill authorizes reasonable search and seizure to be enforced by institutional security personnel or by a law enforcement officer as defined in s. 943.10, F.S.<sup>15</sup> A 3<sup>rd</sup> degree felony is imposed for persons who violate these provisions.<sup>16</sup>

The bill provides an effective date of July 1, 2012.

#### **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:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

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<sup>15</sup> Section 943.10, F.S. provides for the statutory definition of "law enforcement officer".

<sup>16</sup> A felony of the 3<sup>rd</sup> degree is punishable by a fine not to exceed \$5,000 or a term of imprisonment not exceeding 5 years. If the offender is determined to be an habitual offender, the term of imprisonment is not to exceed 10 years.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

According to the department, the proposed changes in this bill will result in the protection of vulnerable citizens by helping to lower the chance that extremely dangerous sexual predators will “slip through the cracks” and avoid commitment because of technical violations of the statute as currently written. The revisions in this bill will also help prevent the introduction of dangerous contraband onto the grounds of any facility designated by DCF to house and treat persons detained or committed. Prohibition of dangerous contraband and possible prosecution of persons violating these provisions will help safeguard staff members, visitors, and residents of such facilities.<sup>17</sup>

The following comments were provided by the department in its staff analysis for a similar measure (HB 1097, dated January 4, 2012) filed for this legislative session.<sup>18</sup> A department analysis for this SPB was not available at the time the committee staff analysis was conducted:

“Limiting sexually violent offenses to felony criminal acts will make statutory definitions consistent with legislative intent by improving efficiency in identifying only those offenders who are extremely dangerous sexual predators.

Allowing the Department to prioritize assessments by release date for persons within one year of release ensures adequate time for processing referrals and filing commitment petitions.

Extending deadlines to the next working day when statutory time limits related to immediate release referrals end past business hours on a work day or on weekends or holidays would ensure there is sufficient time for making recommendations and filing commitment petitions. This prevents sexual predators from being released for technical reasons unrelated to public safety.

Facilitating deportation of committed sexually violent predators that are in the country illegally saves the state the expense of providing long-term care and treatment to undocumented persons

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<sup>17</sup> Department of Children and Families, *2012 Agency Proposal* (received via email on August 24, 2011)(on file with the Senate Committee on Children, Families, and Elder Affairs)

<sup>18</sup> Department of Children and Families, *Staff Analysis and Economic Impact for HB 1097* (January 4, 2012), p.2, (on file with the Senate Committee on Children, Families, and Elder Affairs). A department analysis was not available for this SPB at the time the Senate Committee Analysis was completed.

who can be safely deported. Courts would still be permitted to proceed with commitment if deportation is unlikely to be successful.

One argument against the modification related to federal deportation detainers may be that it does have a possible weakness in the custody safety net. Prosecutors handling sexually violent predator civil commitments have sometimes been reluctant to consider allowing individuals to be deported, rather than civilly committed, because of the potential for an individual to unlawfully and secretly return to the United States and to Florida after being deported. Additionally, some prosecutors have expressed reluctance to facilitate what may amount to the unsupervised release of a sexually violent predator in his country of origin.

Providing criminal sanctions for the unauthorized introduction or removal of dangerous contraband items to or from the sexually violent predator civil commitment facility enhances the safety and security of residents and staff members at those facilities.”

According to the department, there are no apparent opposition arguments to proposed modifications related to technical revisions and contraband rules.

#### **VIII. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

FOR CONSIDERATION By the Committee on Children, Families, and Elder Affairs

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1 A bill to be entitled  
 2 An act relating to sexually violent predators;  
 3 amending s. 394.912, F.S.; clarifying the definition  
 4 of the term "sexually violent offense" to include only  
 5 a felony criminal act that has been determined beyond  
 6 a reasonable doubt to have been sexually motivated;  
 7 amending s. 394.913, F.S.; requiring that the  
 8 Department of Children and Family Services give  
 9 priority to the assessment of persons who will be  
 10 released from total confinement at the earliest date  
 11 under certain circumstances; amending s. 394.9135,  
 12 F.S.; revising the period within which the  
 13 department's multidisciplinary team is required to  
 14 provide an assessment to the state attorney; revising  
 15 the period within which the state attorney may file a  
 16 petition with the circuit court alleging that an  
 17 offender is a sexually violent predator; amending s.  
 18 394.917, F.S.; deleting a provision relating to the  
 19 deportation of a sexually violent predator; creating  
 20 s. 394.933, F.S.; prohibiting the introduction or  
 21 attempted introduction of certain items into any  
 22 facility for the detention of sexually violent  
 23 predators; prohibiting the transmission or attempted  
 24 transmission of prohibited items to a person  
 25 incarcerated in the facility; providing that a person  
 26 or vehicle entering the grounds of the facility is  
 27 subject to reasonable search for and seizure of  
 28 prohibited items; subjecting a person to criminal  
 29 penalties for introducing or attempting to introduce a

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30 prohibited item on the grounds of a facility for the  
 31 detention of sexually violent predators; providing an  
 32 effective date.  
 33  
 34 Be It Enacted by the Legislature of the State of Florida:  
 35  
 36 Section 1. Subsection (9) of section 394.912, Florida  
 37 Statutes, is amended to read:  
 38 394.912 Definitions.—As used in this part, the term:  
 39 (9) "Sexually violent offense" means:  
 40 (a) Murder of a human being while engaged in sexual battery  
 41 in violation of s. 782.04(1)(a)2.;  
 42 (b) Kidnapping of a child under the age of 13 and, in the  
 43 course of that offense, committing:  
 44 1. Sexual battery; or  
 45 2. A lewd, lascivious, or indecent assault or act upon or  
 46 in the presence of the child;  
 47 (c) Committing the offense of false imprisonment upon a  
 48 child under the age of 13 and, in the course of that offense,  
 49 committing:  
 50 1. Sexual battery; or  
 51 2. A lewd, lascivious, or indecent assault or act upon or  
 52 in the presence of the child;  
 53 (d) Sexual battery in violation of s. 794.011;  
 54 (e) Lewd, lascivious, or indecent assault or act upon or in  
 55 presence of the child in violation of s. 800.04 or s.  
 56 847.0135(5);  
 57 (f) An attempt, criminal solicitation, or conspiracy, in  
 58 violation of s. 777.04, of a sexually violent offense;

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59 (g) Any conviction for a felony offense in effect at any  
60 time before October 1, 1998, which is comparable to a sexually  
61 violent offense under paragraphs (a)-(f) or any federal  
62 conviction or conviction in another state for a felony offense  
63 that in this state would be a sexually violent offense; or

64 (h) Any felony criminal act that, either at the time of  
65 sentencing for the offense or subsequently during civil  
66 commitment proceedings under this part, has been determined  
67 beyond a reasonable doubt to have been sexually motivated.

68 Section 2. Paragraph (e) of subsection (3) of section  
69 394.913, Florida Statutes, is amended to read:

70 394.913 Notice to state attorney and multidisciplinary team  
71 of release of sexually violent predator; establishing  
72 multidisciplinary teams; information to be provided to  
73 multidisciplinary teams.—

74 (3)

75 (e)1. Within 180 days after receiving notice, there shall  
76 be a written assessment as to whether the person meets the  
77 definition of a sexually violent predator and a written  
78 recommendation, which shall be provided to the state attorney.  
79 The written recommendation shall be provided by the Department  
80 of Children and Family Services and shall include the written  
81 report of the multidisciplinary team.

82 2. Notwithstanding the timeframes in this section, if the  
83 written assessment and recommendation has not been completed for  
84 more than one person who will be released from total confinement  
85 in less than 365 days, the department shall give priority to the  
86 assessment of the person who will be released at the earliest  
87 date.

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88 Section 3. Subsections (2) and (3) of section 394.9135,  
89 Florida Statutes, are amended to read:

90 394.9135 Immediate releases from total confinement;  
91 transfer of person to department; time limitations on  
92 assessment, notification, and filing petition to hold in  
93 custody; filing petition after release.—

94 (2) Within 72 hours after transfer, the multidisciplinary  
95 team shall assess whether the person meets the definition of a  
96 sexually violent predator. If the multidisciplinary team  
97 determines that the person does not meet the definition of a  
98 sexually violent predator, that person shall be immediately  
99 released. If the multidisciplinary team determines that the  
100 person meets the definition of a sexually violent predator, the  
101 team shall provide the state attorney, as designated by s.  
102 394.913, with its written assessment and recommendation within  
103 the 72-hour period or, if the 72-hour period ends after 5 p.m.  
104 on a work day or on a weekend or holiday, within the next  
105 working day thereafter.

106 (3) ~~Within 48 hours after receipt of the written assessment~~  
107 ~~and recommendation from the multidisciplinary team,~~ The state  
108 attorney, as designated in s. 394.913, may file a petition with  
109 the circuit court alleging that the person is a sexually violent  
110 predator and stating facts sufficient to support such allegation  
111 within 48 hours after receipt of the written assessment and  
112 recommendation from the multidisciplinary team or by 5 p.m. of  
113 the next work day if the 48-hour period ends after 5 p.m. on a  
114 work day or on a weekend or holiday. If a petition is not timely  
115 filed within 48 hours after receipt of the written assessment  
116 and recommendation by the state attorney, the person shall be

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117 immediately released. If a petition is filed pursuant to this  
 118 section and the judge determines that there is probable cause to  
 119 believe that the person is a sexually violent predator, the  
 120 judge shall order the person be maintained in custody and held  
 121 in an appropriate secure facility for further proceedings in  
 122 accordance with this part.

123 Section 4. Subsection (2) of section 394.917, Florida  
 124 Statutes, is amended to read:

125 394.917 Determination; commitment procedure; mistrials;  
 126 housing; counsel and costs in indigent appellate cases.-

127 (2) If the court or jury determines that the person is a  
 128 sexually violent predator, upon the expiration of the  
 129 incarcerative portion of all criminal sentences and disposition  
 130 of any detainees ~~other than detainees for deportation by the~~  
 131 ~~United States Bureau of Citizenship and Immigration Services,~~  
 132 the person shall be committed to the custody of the Department  
 133 of Children and Family Services for control, care, and treatment  
 134 until such time as the person's mental abnormality or  
 135 personality disorder has so changed that it is safe for the  
 136 person to be at large. At all times, persons who are detained or  
 137 committed under this part shall be kept in a secure facility  
 138 segregated from patients of the department who are not detained  
 139 or committed under this part.

140 Section 5. Section 394.933, Florida Statutes, is created to  
 141 read:

142 394.933 Introduction or removal of certain articles  
 143 unlawful; penalty.-

144 (1) (a) Except as authorized by law or as specifically  
 145 authorized by the person in charge of a facility, a person may

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146 not introduce into any facility for commitment or detention of  
 147 sexually violent predators under this part, or take or attempt  
 148 to take or send therefrom, any of the following articles, which  
 149 are declared to be contraband for the purposes of this section:

150 1. An intoxicating beverage or beverage that causes or may  
 151 cause an intoxicating effect;

152 2. A controlled substance as defined in chapter 893;

153 3. A firearm or deadly weapon; or

154 4. Any other item designated by written facility policy to  
 155 be hazardous to the welfare of clients or staff or to the  
 156 operation of the facility.

157 (b) A person may not transmit to, attempt to transmit to,  
 158 or cause or attempt to cause to be transmitted to or received by  
 159 any client of any facility under the supervision or control of  
 160 the department or agency any article or thing declared by this  
 161 section to be contraband, at any place that is outside the  
 162 grounds of such facility, except as authorized by law or as  
 163 specifically authorized by the person in charge of the facility.

164 (2) (a) An individual or vehicle entering the grounds of any  
 165 facility to which this section applies is subject to reasonable  
 166 search and seizure of any contraband materials introduced into  
 167 or upon the grounds of such facility for the purpose of  
 168 enforcing this section. This paragraph shall be enforced by  
 169 institutional security personnel or by a law enforcement officer  
 170 as defined in s. 943.10.

171 (b) A person who violates subsection (1) commits a felony  
 172 of the third degree, punishable as provided in s. 775.082, s.  
 173 775.083, or s. 775.084.

174 Section 6. This act shall take effect July 1, 2012.

**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.)

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Prepared By: The Professional Staff of the Children, Families, and Elder Affairs Committee

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BILL: SPB 7164

INTRODUCER: For consideration by the Children, Families, and Elder Affairs Committee

SUBJECT: Managing Entities

DATE: January 18, 2012

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Daniell	Farmer	CF	<b>Pre-meeting</b>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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**I. Summary:**

This proposed committee bill makes changes relating to behavioral health managing entities by allowing any corporation incorporated or registered in the state – whether for-profit or nonprofit – to be a managing entity. Additionally, the bill prohibits providers of substance abuse and mental health services from being a part of the managing entity’s governance structure.

The bill requires the Department of Children and Family Services (DCF) to negotiate a reasonable cost for the entire system of care, rather than just the administrative costs, and the bill modifies and clarifies DCF’s responsibilities and makes technical and conforming changes.

This bill substantially amends section 394.9082, Florida Statutes.

**II. Present Situation:**

**History of Substance Abuse and Mental Health Managing Entities**

The publicly funded substance abuse and mental health services in Florida are primarily provided through the Department of Children and Family Services (DCF or department). In 2001, the Legislature created s. 394.9082, F.S., and directed DCF and the Agency for Health Care Administration (AHCA or agency) to develop service delivery strategies to improve the coordination, integration, and management of the delivery of mental health and substance abuse services.<sup>1</sup> The department and AHCA were directed to contract with managing entities in at least

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<sup>1</sup> Chapter 2001-191, s. 6, Laws of Fla. (creating s. 394.9082, F.S.).

two geographic areas to test the service delivery strategies.<sup>2</sup> The 2003 Legislature established separate Substance Abuse and Mental Health program offices within DCF. The services from these programs are provided statewide through a district structure.<sup>3</sup>

In 2008, the Legislature amended s. 394.9082, F.S., authorizing the department to implement Behavioral Health Managing Entities. The goal in doing so was to promote improved access to care and service continuity by creating a more efficient and effective management system of substance abuse and mental health services.<sup>4</sup> Since 2008, the department has:

- Aligned managing entity contract areas with the Medicaid regions to better integrate the health services networks between the agencies;
- Contract with three managing entities, reducing the number of contracts the department is responsible for in these areas from 172 to three:
  - SunCoast – one contract / \$138 million,
  - Southern – one contract / \$57 million, and
  - Circuit 1 – one contract / \$27 million;
- Released three intent to negotiate (ITNs) to solicit managing entities in the Northeast, Central, and Southeastern regions. The selection and negotiation process was initiated on July 15, 2011, and was anticipated to be complete by December 1, 2011;
- Amended the SunCoast Region contract to cover Polk, Highland, and Hardee counties and align the new procurements by April 1, 2012; and
- Amended the Southern Region contract to align with new procurements by April 1, 2012.<sup>5</sup>

According to a 2011 Senate Interim Report, DCF is still in the process of contracting with behavioral health managing entities to administer and oversee the state's community health and substance abuse services. As of September 2011, three managing entities were operating (Lakeview Center, Central Florida Behavioral Health Network, and South Florida Behavioral Health Network), and the remaining three were scheduled to be operating by July 1, 2012.<sup>6</sup> When the transition is complete, the department will have six contracts rather than nearly 400 contracts with 137 community mental health and substance abuse providers.<sup>7</sup>

### **Section 394.9082, Florida Statutes**

A managing entity is defined as “a corporation organized in this state, is designated or filed as a nonprofit organization under s. 501(c)3 of the Internal Revenue Service, and is under contract

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<sup>2</sup> *Id.*

<sup>3</sup> Comm. on Healthy Families, The Florida House of Representatives, *House of Representatives Staff Analysis, HB 1429* (Mar. 24, 2008), available at <http://archive.flsenate.gov/data/session/2008/House/bills/analysis/pdf/h1429.HF.pdf> (last visited Jan. 14, 2012).

<sup>4</sup> Chapter 2008-243, s. 1, Laws of Fla.

<sup>5</sup> Dep't of Children and Families, *Staff Analysis and Economic Impact, SB 7164* (Jan. 16, 2012) (on file with the Senate Committee on Children, Families, and Elder Affairs).

<sup>6</sup> Budget Subcommittee on Health and Human Services Appropriations, The Florida Senate, *Crisis Stabilization Units*, 4-5 (Interim Report 2012-109) (Sept. 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-109bha.pdf> (last visited Jan. 14, 2012).

<sup>7</sup> *Id.* at 5.

with the department to manage the day-to-day operational delivery of behavioral health services through an organized system of care.”<sup>8</sup> This structure places responsibility for management services within a single nonprofit entity at the local level.<sup>9</sup> Some of the stated benefits associated with this type of management system include structured oversight, efficient and effective use of limited resources, and a comprehensive, continuous, and integrated system of care in a defined geographic region.<sup>10</sup> Furthermore, managing entities can enhance the ability of DCF and its regional and circuit offices to focus on broad systematic substance abuse and mental health system development rather than the current daily operational requirements.<sup>11</sup>

In addition to providing a design for effective coordination, integration, and management for delivering behavioral health services, additional goals of the service delivery strategies are:

- Improving accountability for a local system of behavioral health care services to meet performance outcomes and standards through the use of reliable and timely data;
- Enhancing the continuity of care for all children, adolescents, and adults who enter the publicly funded behavioral health service system;
- Preserving the “safety net” of publicly funded behavioral health services and providers by establishing locally designed and community-monitored systems of care;
- Providing early diagnosis and treatment interventions to enhance recovery and prevent hospitalization;
- Improving the assessment of local needs for behavioral health services;
- Improving the overall quality of behavioral health services through the use of evidence-based, best practices, and promising practice models;
- Demonstrating improved service integration between behavioral health programs and other programs;
- Providing for additional testing of creative and flexible strategies for financing behavioral health services;
- Promoting cost-effective quality care;
- Working with the state to coordinate admissions and discharges from state civil and forensic hospitals as well as from residential treatment centers;
- Improving the integration, accessibility, and dissemination of behavioral health data;
- Promoting specialized behavioral health services to residents of assisted living facilities;
- Working with the state to reduce the admissions and the length of stay for dependent children in residential treatment centers;
- Providing services to adults and children with co-occurring disorders of mental illnesses and substance abuse problems; and
- Providing services to elder adults in crisis or at-risk for placement in a more restrictive setting due to a serious mental illness or substance abuse.<sup>12</sup>

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<sup>8</sup> Section 394.9082(2)(d), F.S.

<sup>9</sup> Fla. Dep’t of Children and Families, *Substance Abuse and Mental Health, Managing Entities*, <http://www.dcf.state.fl.us/programs/samb/managingEntities.shtml> (last visited Jan. 14, 2012).

<sup>10</sup> Comm. on Children, Families, and Elder Affairs, The Florida Senate, *Bill Analysis and Fiscal Impact Statement, SB 2002* (Mar. 25, 2010), available at <http://archive.flsenate.gov/data/session/2010/Senate/bills/analysis/pdf/2010s2002.cf.pdf> (last visited Jan. 14, 2012).

<sup>11</sup> Fla. Dep’t of Children and Families, *supra* note 9.

<sup>12</sup> Section 394.9082(5), F.S.

The statute provides direction to the department regarding its contracts with the managing entities. The operating costs of the managing entity contract is to be funded through funds from DCF and the department is required to negotiate a reasonable and appropriate administrative cost rate with the managing entity.<sup>13</sup> The statute also spells out specific core functions that DCF can contract with the managing entities to provide.<sup>14</sup>

Section 394.9082, F.S., requires governance of managing entities by a community board of directors that includes consumers, community stakeholders and organizations, and providers of mental health and substance abuse services.<sup>15</sup> In a 2011 Senate Interim Report, it was recommended that since managing entities are responsible for contracting with and overseeing mental health and substance abuse providers, representatives of these providers should not be on the board of directors for the managing entity. Specifically, the report stated that “[t]he Legislature should consider amending s. 394.9082(7), Florida Statutes, to require representatives of community mental health providers to be ex-officio members of the managing entity board of directors, rather than be voting members, to avoid the possibility or appearance of conflicts of interest.”<sup>16</sup>

### III. Effect of Proposed Changes:

This proposed committee bill makes changes relating to behavioral health managing entities by allowing any corporation incorporated or registered in the state – whether for-profit or nonprofit – to be a managing entity. Specifically, the bill amends the definition of “managing entity” to mean “a corporation that is incorporated or registered in this state and that manages the day-to-day operational delivery of behavioral health services through an organized system of care under contract with the department.”

The bill also amends the definition of “provider networks” to remove the requirement that the direct service agencies be under contract with a managing entity. According to the Department of Children and Family Services (DCF or department), other sections of law allow provider networks that aren’t under contract with the managing entity. This change in the bill conforms the language to other statutes.<sup>17</sup>

Additionally, the bill prohibits providers of substance abuse and mental health services from being a part of the managing entity’s governance structure. By doing so, the bill addresses concerns raised in a 2011 Senate Interim Report about possible conflicts of interest on the board of directors. Specifically, the report stated that “[s]ince managing entities are responsible for contracting with and overseeing mental health and substance abuse providers in their regions, representatives of these providers should not have a role in the governance of managing entities.”<sup>18</sup>

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<sup>13</sup> Section 394.9082(4)(b), F.S.

<sup>14</sup> Section 394.9082(6)(d), F.S.

<sup>15</sup> Section 394.9082(7)(a), F.S.

<sup>16</sup> Budget Subcommittee on Health and Human Services Appropriations, *supra* note 6, at 5.

<sup>17</sup> Conversation with representatives from the Department of Children and Family Services (Nov. 4, 2011).

<sup>18</sup> Budget Subcommittee on Health and Human Services Appropriations, *supra* note 6, at 5.

The bill requires DCF to negotiate a reasonable cost for the entire system of care, rather than just the administrative costs, and it requires DCF to eliminate duplication within the provider network.

The bill requires that a mental health or substance abuse provider currently under contract with DCF be offered a contract by the managing entity for one year. This is current practice in order to maintain as much continuity as possible for consumers, but still let the managing entity make changes if the provider is not working out.<sup>19</sup>

The bill amends the statutorily listed core functions that may be provided by a managing entity. Under current law, the listed functions are very specific; however, the specifics of such core functions are generally provided for by contract and therefore do not need to be spelled out in statute.<sup>20</sup>

The bill provides a due date of June 30, 2013, for certain managing entities to move from their current governance structure to the new structure that prohibits providers of substance abuse and mental health services from being a part of the governance structure.

Finally, the bill provides that the ultimate responsibility of accountability for the expenditure of substance abuse and mental health public funds resides with DCF.

The bill makes additional technical or conforming changes.

The bill provides an effective date of July 1, 2012.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

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<sup>19</sup> Conversation with representatives from the Department of Children and Family Services (Nov. 4, 2011).

<sup>20</sup> *Id.*

**B. Private Sector Impact:**

This proposed committee bill makes changes relating to behavioral health managing entities by allowing any corporation incorporated or registered in the state – whether for-profit or nonprofit – to be a managing entity. By allowing for-profit corporations to become managing entities, the bill “expands and enhances free market competition, thereby achieving cost savings and efficiencies, more effective and accessible system of care and service continuity, and improving procurement and contract management.”<sup>21</sup>

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

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<sup>21</sup> Dep’t of Children and Families, *supra* note 5.



423934

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
01/21/2012	.	
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The Committee on Children, Families, and Elder Affairs (Latvala) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 52 - 77  
and insert:

private, nonprofit entity at the local level will promote improved access to care, promote service continuity, and provide for more efficient and effective delivery of substance abuse and mental health services. The Legislature finds that streamlining administrative processes will create cost efficiencies and provide flexibility to better match available services to consumers' identified needs.



423934

13 (2) DEFINITIONS.—As used in this section, the term:  
14 (a) "Behavioral health services" means mental health  
15 services and substance abuse prevention and treatment services  
16 as defined in this chapter and chapter 397 which are provided  
17 using state and federal funds.  
18 (b) "Decisionmaking model" means a comprehensive management  
19 information system needed to answer the following management  
20 questions at the federal, state, regional, circuit, and local  
21 provider levels: who receives what services from which providers  
22 with what outcomes and at what costs?  
23 (c) "Geographic area" means a county, circuit, regional, or  
24 multiregional area in this state.  
25 (d) "Managing entity" means a corporation that is organized  
26 in this state, is designated or filed as a nonprofit  
27 organization under s. 501(c)(3) of the Internal Revenue Code,  
28 and is under contract to the department to manage the day-to-day  
29 operational delivery of behavioral health services through an  
30 organized system of care.

31  
32 ===== T I T L E A M E N D M E N T =====

33 And the title is amended as follows:

34 Delete lines 3 - 7

35 and insert:

36  
37 services; amending s. 394.9082, F.S.; redefining the term  
38 "provider networks";

FOR CONSIDERATION By the Committee on Children, Families, and  
Elder Affairs

586-01059-12

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1 A bill to be entitled  
2 An act relating to substance abuse and mental health  
3 services; amending s. 394.9082, F.S.; revising  
4 legislative findings regarding the management  
5 structure of entities that provide behavioral health  
6 treatment and prevention services; redefining the  
7 terms "managing entity" and "provider networks";  
8 requiring the Department of Children and Family  
9 Services to negotiate a reasonable and appropriate  
10 administrative cost rate for the system of behavioral  
11 health services with community-based managing  
12 entities; requiring that mental health or substance  
13 abuse providers currently under contract with the  
14 department be offered a contract by the managing  
15 entity for 1 year; revising the core functions to be  
16 performed by the managing entity; revising the  
17 governance structure of the managing entity; revising  
18 the requirements relating to the qualification and  
19 operational criteria used by the department when  
20 selecting a managing entity; revising the  
21 responsibilities of the department; authorizing the  
22 department to adopt rules; providing an effective  
23 date.

24  
25 Be It Enacted by the Legislature of the State of Florida:

26  
27 Section 1. Section 394.9082, Florida Statutes, is amended  
28 to read:  
29 394.9082 Behavioral health managing entities.—

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

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30 (1) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds  
31 that untreated behavioral health disorders constitute major  
32 health problems for residents of this state, are a major  
33 economic burden to the citizens of this state, and substantially  
34 increase demands on the state's juvenile and adult criminal  
35 justice systems, the child welfare system, and health care  
36 systems. The Legislature finds that behavioral health disorders  
37 respond to appropriate treatment, rehabilitation, and supportive  
38 intervention. The Legislature finds that it has made a  
39 substantial long-term investment in the funding of the  
40 community-based behavioral health prevention and treatment  
41 service systems and facilities in order to provide critical  
42 emergency, acute care, residential, outpatient, and  
43 rehabilitative and recovery-based services. The Legislature  
44 finds that local communities have also made substantial  
45 investments in behavioral health services, contracting with  
46 safety net providers who by mandate and mission provide  
47 specialized services to vulnerable and hard-to-serve populations  
48 and have strong ties to local public health and public safety  
49 agencies. The Legislature finds that a management structure that  
50 places the responsibility for publicly financed behavioral  
51 health treatment and prevention services within a single  
52 private, ~~non-profit~~ entity at the local level will promote  
53 improved access to care, promote service continuity, and provide  
54 for more efficient and effective delivery of substance abuse and  
55 mental health services. The Legislature finds that streamlining  
56 administrative processes will create cost efficiencies and  
57 provide flexibility to better match available services to  
58 consumers' identified needs.

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

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59 (2) DEFINITIONS.—As used in this section, the term:

60 (a) "Behavioral health services" means mental health  
61 services and substance abuse prevention and treatment services  
62 as defined in this chapter and chapter 397 which are provided  
63 using state and federal funds.

64 (b) "Decisionmaking model" means a comprehensive management  
65 information system needed to answer the following management  
66 questions at the federal, state, regional, circuit, and local  
67 provider levels: who receives what services from which providers  
68 with what outcomes and at what costs?

69 (c) "Geographic area" means a county, circuit, regional, or  
70 multiregional area in this state.

71 (d) "Managing entity" means a corporation that is  
72 incorporated or registered ~~organized~~ in this state and that  
73 manages, ~~is designated or filed as a nonprofit organization~~  
74 ~~under s. 501(c)(3) of the Internal Revenue Code, and is under~~  
75 ~~contract to the department to manage~~ the day-to-day operational  
76 delivery of behavioral health services through an organized  
77 system of care under contract with the department.

78 (e) "Provider networks" mean the direct service agencies  
79 ~~that are under contract with a managing entity and that together~~  
80 constitute a comprehensive array of emergency, acute care,  
81 residential, outpatient, recovery support, and consumer support  
82 services.

83 (3) SERVICE DELIVERY STRATEGIES.—The department may work  
84 through managing entities to develop service delivery strategies  
85 that will improve the coordination, integration, and management  
86 of the delivery of behavioral health services to people who have  
87 mental or substance use disorders. It is the intent of the

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88 Legislature that a well-managed service delivery system will  
89 increase access for those in need of care, improve the  
90 coordination and continuity of care for vulnerable and high-risk  
91 populations, and redirect service dollars from restrictive care  
92 settings to community-based recovery services.

93 (4) CONTRACT FOR SERVICES.—

94 (a) The department may contract for the purchase and  
95 management of behavioral health services with community-based  
96 managing entities. The department may require a managing entity  
97 to contract for specialized services that are not currently part  
98 of the managing entity's network if the department determines  
99 that to do so is in the best interests of consumers of services.  
100 The secretary shall determine the schedule for phasing in  
101 contracts with managing entities. The managing entities shall,  
102 at a minimum, be accountable for the operational oversight of  
103 the delivery of behavioral health services funded by the  
104 department and for the collection and submission of the required  
105 data pertaining to these contracted services. A managing entity  
106 shall serve a geographic area designated by the department. The  
107 geographic area must be of sufficient size in population and  
108 have enough public funds for behavioral health services to allow  
109 for flexibility and maximum efficiency.

110 (b) The operating costs of the managing entity contract  
111 shall be funded through funds from the department and any  
112 savings and efficiencies achieved through the implementation of  
113 managing entities when realized by their participating provider  
114 network agencies. The department recognizes that managing  
115 entities will have infrastructure development costs during  
116 start-up so that any efficiencies to be realized by providers

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117 from consolidation of management functions, and the resulting  
 118 savings, will not be achieved during the early years of  
 119 operation. The department shall negotiate a reasonable and  
 120 appropriate administrative cost rate for the system of care  
 121 managed by ~~with~~ the managing entity. The Legislature intends  
 122 that reduced local and state contract management and other  
 123 administrative duties passed on to the managing entity allows  
 124 funds previously allocated for these purposes to be  
 125 proportionately reduced and the savings used to purchase the  
 126 administrative functions of the managing entity. Policies and  
 127 procedures of the department for monitoring contracts with  
 128 managing entities shall include provisions for eliminating  
 129 duplication within the provider network and between ~~of~~ the  
 130 department's and the managing entities' contract management and  
 131 other administrative activities in order to achieve the goals of  
 132 cost-effectiveness and regulatory relief. To the maximum extent  
 133 possible, provider-monitoring activities shall be assigned to  
 134 the managing entity.

135 (c) Contracting and payment mechanisms for services must  
 136 promote clinical and financial flexibility and responsiveness  
 137 and must allow different categorical funds to be integrated at  
 138 the point of service. The contracted service array must be  
 139 determined by using public input, needs assessment, and  
 140 evidence-based and promising best practice models. The  
 141 department may employ care management methodologies, prepaid  
 142 capitation, and case rate or other methods of payment which  
 143 promote flexibility, efficiency, and accountability.

144 (5) GOALS.—The goal of the service delivery strategies is  
 145 to provide a design for an effective coordination, integration,

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146 and management approach for delivering effective behavioral  
 147 health services to persons who are experiencing a mental health  
 148 or substance abuse crisis, who have a disabling mental illness  
 149 or a substance use or co-occurring disorder, and require  
 150 extended services in order to recover from their illness, or who  
 151 need brief treatment or longer-term supportive interventions to  
 152 avoid a crisis or disability. Other goals include:

153 (a) Improving accountability for a local system of  
 154 behavioral health care services to meet performance outcomes and  
 155 standards through the use of reliable and timely data.

156 (b) Enhancing the continuity of care for all children,  
 157 adolescents, and adults who enter the publicly funded behavioral  
 158 health service system.

159 (c) Preserving the "safety net" of publicly funded  
 160 behavioral health services and providers, and recognizing and  
 161 ensuring continued local contributions to these services, by  
 162 establishing locally designed and community-monitored systems of  
 163 care.

164 (d) Providing early diagnosis and treatment interventions  
 165 to enhance recovery and prevent hospitalization.

166 (e) Improving the assessment of local needs for behavioral  
 167 health services.

168 (f) Improving the overall quality of behavioral health  
 169 services through the use of evidence-based, best practice, and  
 170 promising practice models.

171 (g) Demonstrating improved service integration between  
 172 behavioral health programs and other programs, such as  
 173 vocational rehabilitation, education, child welfare, primary  
 174 health care, emergency services, juvenile justice, and criminal

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175 justice.

176 (h) Providing for additional testing of creative and  
177 flexible strategies for financing behavioral health services to  
178 enhance individualized treatment and support services.

179 (i) Promoting cost-effective quality care.

180 (j) Working with the state to coordinate admissions and  
181 discharges from state civil and forensic hospitals and  
182 coordinating admissions and discharges from residential  
183 treatment centers.

184 (k) Improving the integration, accessibility, and  
185 dissemination of behavioral health data for planning and  
186 monitoring purposes.

187 (l) Promoting specialized behavioral health services to  
188 residents of assisted living facilities.

189 (m) Working with the state and other stakeholders to reduce  
190 the admissions and the length of stay for dependent children in  
191 residential treatment centers.

192 (n) Providing services to adults and children with co-  
193 occurring disorders of mental illnesses and substance abuse  
194 problems.

195 (o) Providing services to elder adults in crisis or at-risk  
196 for placement in a more restrictive setting due to a serious  
197 mental illness or substance abuse.

198 (6) ESSENTIAL ELEMENTS.—It is the intent of the Legislature  
199 that the department may plan for and enter into contracts with  
200 managing entities to manage care in geographical areas  
201 throughout the state.

202 (a) The managing entity must demonstrate the ability of its  
203 network of providers to comply with the pertinent provisions of

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204 this chapter and chapter 397 and to ensure the provision of  
205 comprehensive behavioral health services. The network of  
206 providers must include, but need not be limited to, community  
207 mental health agencies, substance abuse treatment providers, and  
208 best practice consumer services providers.

209 (b) The department shall terminate its mental health or  
210 substance abuse provider contracts for services to be provided  
211 by the managing entity at the same time it contracts with the  
212 managing entity.

213 (c) The managing entity shall ensure that its provider  
214 network is broadly conceived. ~~All~~ Mental health or substance  
215 abuse ~~treatment~~ providers currently under contract with the  
216 department shall be offered a contract by the managing entity  
217 for 1 year.

218 (d) The department may contract with managing entities to  
219 provide the following core functions:

220 1. System-of-care development and management. ~~Financial~~  
221 ~~accountability.~~

222 2. Utilization management. ~~Allocation of funds to network~~  
223 ~~providers in a manner that reflects the department's strategic~~  
224 ~~direction and plans.~~

225 3. Network and subcontract management. ~~Provider monitoring~~  
226 ~~to ensure compliance with federal and state laws, rules, and~~  
227 ~~regulations.~~

228 4. Quality improvement. ~~Data collection, reporting, and~~  
229 ~~analysis.~~

230 5. Technical assistance and training. ~~Operational plans to~~  
231 ~~implement objectives of the department's strategic plan.~~

232 6. Data collection, reporting, and analysis. ~~Contract~~

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233 ~~compliance.~~234 7. Financial Performance management.235 8. Planning. ~~Collaboration with community stakeholders,~~  
236 ~~including local government.~~237 9. Board development and governance. ~~System of care through~~  
238 ~~network development.~~239 10. Disaster planning and responsiveness. ~~Consumer care~~  
240 ~~coordination.~~241 ~~11. Continuous quality improvement.~~242 ~~12. Timely access to appropriate services.~~243 ~~13. Cost effectiveness and system improvements.~~244 ~~14. Assistance in the development of the department's~~  
245 ~~strategic plan.~~246 ~~15. Participation in community, circuit, regional, and~~  
247 ~~state planning.~~248 ~~16. Resource management and maximization, including pursuit~~  
249 ~~of third party payments and grant applications.~~250 ~~17. Incentives for providers to improve quality and access.~~251 ~~18. Liaison with consumers.~~252 ~~19. Community needs assessment.~~253 ~~20. Securing local matching funds.~~

254 (e) The managing entity shall ensure that written  
 255 cooperative agreements are developed and implemented among the  
 256 criminal and juvenile justice systems, the local community-based  
 257 care network, and the local behavioral health providers in the  
 258 geographic area which define strategies and alternatives for  
 259 diverting people who have mental illness and substance abuse  
 260 problems from the criminal justice system to the community.  
 261 These agreements must also address the provision of appropriate

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262 services to persons who have behavioral health problems and  
263 leave the criminal justice system.

264 (f) Managing entities must collect and submit data to the  
 265 department regarding persons served, outcomes of persons served,  
 266 and the costs of services provided through the department's  
 267 contract. The department shall evaluate managing entity services  
 268 based on consumer-centered outcome measures that reflect  
 269 national standards that can dependably be measured. The  
 270 department shall work with managing entities to establish  
 271 performance standards related to:

272 1. The extent to which individuals in the community receive  
 273 services.

274 2. The improvement of quality of care for individuals  
 275 served.

276 3. The success of strategies to divert jail, prison, and  
 277 forensic facility admissions.

278 4. Consumer and family satisfaction.

279 5. The satisfaction of key community constituents such as  
 280 law enforcement agencies, juvenile justice agencies, the courts,  
 281 the schools, local government entities, hospitals, and others as  
 282 appropriate for the geographical area of the managing entity.

283 (g) The Agency for Health Care Administration may establish  
 284 a certified match program, which must be voluntary. Under a  
 285 certified match program, reimbursement is limited to the federal  
 286 Medicaid share to Medicaid-enrolled strategy participants. The  
 287 agency may take no action to implement a certified match program  
 288 unless the consultation provisions of chapter 216 have been met.  
 289 The agency may seek federal waivers that are necessary to  
 290 implement the behavioral health service delivery strategies.

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291 (7) MANAGING ENTITY REQUIREMENTS.—The department may adopt  
 292 rules and standards and a process for the qualification and  
 293 operation of managing entities which are based, in part, on the  
 294 following criteria:

295 (a) A managing entity's governance structure shall be  
 296 representative and shall, ~~at a minimum,~~ include consumers, and  
 297 family members, and appropriate community stakeholders and  
 298 organizations, ~~and~~ Providers of substance abuse and mental  
 299 health services as defined in this chapter and chapter 397 may  
 300 not be part of the managing entity's governance structure. If  
 301 there are one or more private-receiving facilities in the  
 302 geographic coverage area of a managing entity, the managing  
 303 entity shall have one representative for the private-receiving  
 304 facilities as an ex officio member of its board of directors.

305 ~~(b) A managing entity that was originally formed primarily~~  
 306 ~~by substance abuse or mental health providers must present and~~  
 307 ~~demonstrate a detailed, consensus approach to expanding its~~  
 308 ~~provider network and governance to include both substance abuse~~  
 309 ~~and mental health providers.~~

310 ~~(c) A managing entity must submit a network management plan~~  
 311 ~~and budget in a form and manner determined by the department.~~  
 312 ~~The plan must detail the means for implementing the duties to be~~  
 313 ~~contracted to the managing entity and the efficiencies to be~~  
 314 ~~anticipated by the department as a result of executing the~~  
 315 ~~contract. The department may require modifications to the plan~~  
 316 ~~and must approve the plan before contracting with a managing~~  
 317 ~~entity. The department may contract with a managing entity that~~  
 318 ~~demonstrates readiness to assume core functions, and may~~  
 319 ~~continue to add functions and responsibilities to the managing~~

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320 ~~entity's contract over time as additional competencies are~~  
 321 ~~developed as identified in paragraph (g). Notwithstanding other~~  
 322 ~~provisions of this section, the department may continue and~~  
 323 ~~expand managing entity contracts if the department determines~~  
 324 ~~that the managing entity meets the requirements specified in~~  
 325 ~~this section.~~

326 ~~(b)(d) Notwithstanding paragraphs (b) and (c),~~ A managing  
 327 entity that is currently a fully integrated system providing  
 328 mental health and substance abuse services, Medicaid, and child  
 329 welfare services is permitted to continue operating under its  
 330 current governance structure until June 30, 2013, as long as the  
 331 managing entity can demonstrate to the department that  
 332 consumers, other stakeholders, and network providers are  
 333 included in the planning process.

334 ~~(c)(e)~~ Managing entities shall operate in a transparent  
 335 manner, providing public access to information, notice of  
 336 meetings, and opportunities for broad public participation in  
 337 decisionmaking. ~~The managing entity's network management plan~~  
 338 ~~must detail policies and procedures that ensure transparency.~~

339 ~~(d)(f)~~ Before contracting with a managing entity, the  
 340 department must perform an onsite readiness review of a managing  
 341 entity to determine its operational capacity to satisfactorily  
 342 perform the duties to be contracted.

343 ~~(e)(g)~~ The department shall engage community stakeholders,  
 344 ~~including~~ providers, and managing entities under contract with  
 345 the department, ~~in~~ the development of objective standards to  
 346 measure the competencies of managing entities and their  
 347 readiness to assume the responsibilities described in this  
 348 section, and measure the outcomes to hold them accountable.

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349 (8) DEPARTMENT RESPONSIBILITIES.—With the introduction of  
 350 managing entities to monitor department-contracted providers'  
 351 day-to-day operations, the department and its regional and  
 352 ~~circuit~~ offices will have increased ability to focus on broad  
 353 systemic substance abuse and mental health issues. After the  
 354 department enters into a managing entity contract in a  
 355 geographic area, the regional ~~and circuit~~ offices of the  
 356 department in that area shall direct their efforts primarily to  
 357 monitoring the managing entity and its system of care; ~~contract,~~  
 358 including negotiation of system quality improvement, cost  
 359 management, and outcomes requirements; ~~goals each contract year,~~  
 360 ~~and~~ review of the managing entity's plans to execute department  
 361 strategic plans; carrying out statutorily mandated licensure  
 362 functions; conducting community and regional substance abuse and  
 363 mental health planning; ~~communicating to the department the~~  
 364 ~~local needs assessed by the managing entity; preparing~~  
 365 ~~department strategic plans;~~ coordinating with other state and  
 366 local agencies; ~~assisting the department in assessing local~~  
 367 ~~trends and issues and advising departmental headquarters on~~  
 368 ~~local priorities;~~ and providing leadership in disaster planning  
 369 and preparation. The ultimate responsibility of accountability  
 370 for the expenditure of substance abuse and mental health public  
 371 funds resides with the department.

372 (9) REPORTING.—Reports of the department's activities,  
 373 progress, and needs in achieving the goal of contracting with  
 374 managing entities in each circuit and region statewide must be  
 375 submitted to the appropriate substantive and appropriations  
 376 committees in the Senate and the House of Representatives on  
 377 January 1 and July 1 of each year until the full transition to

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378 managing entities has been accomplished statewide.

379 (10) RULES.—The department may ~~shall~~ adopt rules to  
 380 administer this section and, ~~as necessary, to further specify~~  
 381 ~~requirements of managing entities.~~

382 Section 2. This act shall take effect July 1, 2012.

Page 14 of 14

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## **'Say No' To For-Profit Managing Entities for the DCF Mental Health and Substance Abuse System**

- Madam Chair and Members: Thank you for the opportunity to speak on SB 7164 that addresses managing entities operated by the Department of Children and Families.
- For several years, DCF has had pilot managing entity projects to operate local mental health and substance abuse systems in three areas of the state.
- In 2008, the Legislature enacted legislation that provided a detailed legislation foundation for establishing MEs throughout the state.
- There were some overriding principles included in the legislation: MEs would take over most of the day-to-day operational functions of local/regional delivery systems; MEs must be regionally or locally based; they must be operated by non-profit entities, including entities established by providers; and ME governance must be broad based but permitted provider representatives.
- The Department of Children and Families is now proposing that the Legislature amend Chapter 394, Florida Statutes, even before an additional ME beyond the pilot programs has been implemented, to allow for-profit companies, for the first time, to run the publicly financed mental health and substance abuse safety net system and DCF managing entities.
- In addition, DCF would only guarantee contracts for existing providers for one year and would prohibit providers from serving on an ME board.
- This legislation is being sought, even though procurements are underway in many areas of the state that would result in multi-year contracts. And applicants pursuant to the current law are restricted to nonprofit corporations.
- The Florida Council opposes all three of the substantive changes included in the proposed bill.
- Most importantly, we oppose authorization of for-profit managing entities that would be have broad authority to run community-based safety net systems consisting almost entirely of nonprofit agencies and financed in part with local funds and by many payers other than DCF.
- The DCF mental health and substance abuse system is so underfunded that there is no room for a profit. At a 4% profit rate, \$20-\$25 million would be diverted from direct care to company profits.
- Last year, the Legislature, despite having a \$4B deficit, said we can no longer cut funding for these services – and that the state must protect current levels of services.
- To change now, even before implementing the 2008 legislation, allowing for-profit entities would have the following effects:
  - Less Direct Care/Services – Fewer People Served
  - Further Erosion of a Grossly 'Under-Resourced' System
  - Increased Provider Administrative Costs
  - Less Local Control/Less Community Input/Ties
  - MEs Working for Shareholders Not the State, Consumers and Their Families
  - Corporate (Shareholder) Governance, Not Stakeholder Governance
  - MEs Making Money on State, Local and Provider Financed Assets
  - To Secure Profits, MEs That Control Costs Rather Than Manage and Reinvest in Care
  - Less System Expertise
- Put Simply There Is No Money To Allow For Profit Taking
- With regard to requiring MEs to contract with current contractors, we would argue that these contractors are in good standing, relied on by their communities, and provide choice to consumers. Even Medicaid requires this of its HMOs. Every provider in good standing has to be offered a contract. There is, however, no guarantee of volume of business.
- Finally, providers should be allowed to participate in ME governance, even in a minority role, because of their expertise, community investment, community ties, and important system role.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/19/12  
Meeting Date

Topic Managing Entities Bill

Bill Number SPB 7164  
*(if applicable)*

Name David Wilkins

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Secretary

Address 1317 Whewood Blvd.

Phone 850-487-1111

Tallahassee FL 32399  
*City State Zip*

E-mail david-wilkins@dcf.state.fl.us

Speaking:  For  Against  Information

Representing DCF

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-19-12  
Meeting Date

Topic \_\_\_\_\_

Bill Number PCB SB 64 HB 7146  
*(if applicable)*

Name J. Keith Arnold

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Lobbyist

Address 110 N. Monroe #1090

Phone 850-681-0411

Tallahassee FL 32301  
*City State Zip*

E-mail \_\_\_\_\_

Speaking:  For  Against  Information

Representing South Fla. Behavioral Health Network

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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1/19

Meeting Date

Topic managing entities

Bill Number 7164  
(if applicable)

Name Bob Sharpe

Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title President

Address 316 E Park Ave

Phone 850/224-6048

Tallahassee FL 32301  
Street City State Zip

E-mail bob@fccmh.org

Speaking:  For  Against  Information

Representing FL Council for Behavioral Health Care

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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1/19/12

Meeting Date

Topic \_\_\_\_\_

Bill Number SB7164  
(if applicable)

Name SAM BELL

Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title \_\_\_\_\_

Address 1298 MILL STREAM

Phone \_\_\_\_\_

TALLAHASSEE, FL  
Street City State Zip

E-mail \_\_\_\_\_

Speaking:  For  Against  Information

Representing \_\_\_\_\_

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

1-19-12

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date

Topic MANAGING ENTITIES

Bill Number SPB 7164  
(if applicable)

Name MARK P. FONTAINE

Amendment Barcode 423934  
(if applicable)

Job Title EXECUTIVE DIRECTOR

Address 2868 MAHAN DRIVE  
Street

Phone 878-2196

TALLAHASSEE FL 32308  
City State Zip

E-mail \_\_\_\_\_

Speaking:  For  Against  Information

Representing \_\_\_\_\_

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

S-001 (10/20/11)

**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 Children, Families, and Elder Affairs Committee

BILL: SPB 7166

INTRODUCER: Children, Families, and Elder Affairs Committee

SUBJECT: Child Protection

DATE: January 18, 2012      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Preston	Farmer	CF	<b>Pre-meeting</b>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

The bill makes changes to numerous provisions in Chapter 39, F.S., relating to the central abuse hotline, child protective investigations, and the dependency process. Specifically, the bill does the following:

- Amends the central abuse hotline procedures to specify that the hotline may accept a call from a parent or legal custodian seeking assistance for themselves when the call does not meet the statutory requirement of abuse, abandonment or neglect;
- Allows the Department of Children and Family Services (DCF or department) to discontinue an investigation if it is determined that a false report of abuse, abandonment or neglect has been filed;
- Requires the department to maintain one electronic child welfare case file for each child;
- Requires child protective investigators (CPIs) to determine the need for immediate consultation with law enforcement, child protection teams, and others prior to the commencement of an investigation;
- Eliminates the current bifurcated investigative process and provides for a single procedure for every case accepted for investigation; and
- Requires that monitoring of protective investigation reports are used to determine the quality and timeliness of safety assessments, and teamwork with other professionals and engagement with families.

In addition, the bill makes changes to the chapter 39 protective injunction process to prevent child abuse and to mirror language in the civil injunction process in Chapter 741, F.S.; amends requirements relating to criminal background and records checks for individuals being

considered for placement of a child; and amends provisions relating to termination of parental rights that apply to incarcerated parents. Finally, the bill provides specific circumstances in which the court may order maintaining and strengthening families as a permanency goal in the child's case plan when the child resides with a parent and revises the number of times the Children and Youth Cabinet must meet annually.

The bill substantially amends ss. 39.01, 39.013, 39.0138, 39.201, 39.205, 39.301, 39.302, 39.307, 39.502, 39.504, 39.521, 39.6011, 39.621, 39.701, 39.8055, 39.806, 39.823, 39.828 and 402.56 of the Florida Statutes:

## II. Present Situation:

### Background

Chapter 39, F.S., provides direction for the care, safety, and protection of children in an environment that fosters healthy social, emotional, intellectual, and physical development; to ensure secure and safe custody; to promote the health and well-being of all children under the state's care; and to prevent the occurrence of child abuse, neglect, and abandonment.<sup>1</sup> The central abuse hotline and the child protective investigation comprise the "front-end" of the child protection system in Florida.<sup>2</sup>

### Florida Abuse Hotline

The department operates the central abuse hotline (hotline), a 24 hour a day 7 day a week reporting system that serves as a point of contact for individuals who reasonably suspect or believe that a child has been abused, abandoned or neglected<sup>3</sup> by a parent, legal custodian, caregiver, or other person responsible for the child's welfare<sup>4</sup> or that a child is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care.<sup>5,6</sup>

Callers to the hotline may remain anonymous, however, various professionals are required to provide their name as part of the permanent report.<sup>7</sup> Once a call has been made to the hotline, hotline counselors enter all information into the Florida Safe Families Network (FSFN), and determine if the call meets the statutory definition of child abuse, abandonment or neglect by a caregiver.<sup>8</sup> If the call meets one of those definitions, it is accepted as a report and referred to the appropriate child investigative office.<sup>9</sup> DCF is required to maintain a master file for each child whose report is accepted by the hotline.<sup>10</sup>

<sup>1</sup> s. 39.001(1)(a), F.S.

<sup>2</sup> ss. 39.201 and 39.301, F.S.

<sup>3</sup> As defined by s. 39.01(1), (2), and (44), F.S.

<sup>4</sup> As defined by s. 39.01(10), (47) and (49), F.S.

<sup>5</sup> s. 39.201(1)(a), F.S.

<sup>6</sup> In 2008, the department was authorized to accept reports to the central abuse hotline by fax or web-based report. Ch. 2008-245, L.O.F.

<sup>7</sup> s. 39.201, F.S.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

In 2007 the department authorized the central abuse hotline to begin implementing new procedures related to calls that do not meet the criteria to be accepted as a report, but may indicate situations in which a family needs help. These have at various points in time been referred to as “prevention referrals,” “parent needs assistance referrals,” and “special condition referrals,” and the expectation was for circuits to utilize local resources to prevent a child from being placed at risk.<sup>11,12</sup>

### **Child Protective Investigations**

The department’s approach to child protective investigations has historically been marked by change:

- In 1992, the Florida House of Representatives Aging and Human Services Committee decided that incremental changes made in the past relating to child protective investigations had not remedied perceived problems with the process and wanted a more systematic approach to reforming the child protection system.<sup>13</sup> Legislation was enacted that directed the department to prepare a strategic plan to establish a clear and consistent direction for policy and programs for the child protection system, including goals, objectives, and strategies.<sup>14</sup> Recommendations in the completed strategic plan included creating the statutory authority for developing and demonstrating the efficacy of a service-oriented response system to reports of child abuse and neglect.<sup>15</sup>
- With the creation of Part III of chapter 415, F.S., entitled Family Services Response System (FSRS)<sup>16</sup> in 1993, Florida was one of the first two states to implement a differential response system. The provisions in Florida law relating to the FSRS constitute the assessment response of a differential response system. The approach provided for a nonadversarial response to reports of abuse and neglect by assessing for and delivering services to remove any determined risk, while providing support for the family. The legislation allowed local service districts the flexibility to design the FSRS to meet local community needs<sup>17</sup> and required an ongoing community planning effort to include the approval of the recently established Health and Human Service Boards.<sup>18</sup>

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<sup>11</sup> Department of Children and Family Services. Prevention Referral Guidance Memorandum, December 1, 2009.

<sup>12</sup> Early problems included circuits and lead agencies providing inconsistent responses to these referrals. A subsequent memorandum provided some clarification for the referral process. Department of Children and Family Services. Child Prevention Referral Guidance and Clarification Memorandum. January 19, 2010.

<sup>13</sup> Final Bill Analysis and Economic Impact Statement, CS/HB 593, Florida House of Representatives, Committee on Aging and Human Services, April 3, 1993.

<sup>14</sup> Ch. 92-58, L.O.F. In developing the plan, the department was required to engage a broad spectrum of individuals and groups and look at the child protection system in its entirety.

<sup>15</sup> Final Bill Analysis and Economic Impact Statement, CS/HB 593, Florida House of Representatives, Committee on Aging and Human Services, April 3, 1993.

<sup>16</sup> Chapter 93-25, L.O.F. The legislation not only created Part III of chapter 415, F.S., entitled Family Services Response System, but also created Part IV, entitled Protective Investigations which resulted in a clear statutory delineation between the two types of responses to reports of child abuse and neglect. The legislation also required an outcome evaluation and three annual status reports to be submitted to the legislature beginning January 1, 1995.

<sup>17</sup> s. 415.5018, F.S. (1993).

<sup>18</sup> *Id.*

- The department began steps toward the implementation of FSRS in districts statewide. Despite some positive findings reported in subsequent outcome evaluations, difficulties identified during the course of the evaluation had a negative effect on the viability and support for FSRS.<sup>19</sup> In addition to problems identified in the outcome evaluation, an assessment of dependency cases by Florida's Dependency Court Improvement Program (DCIP)<sup>20</sup> revealed enough judicial concern with the inconsistent implementation of the FSRS, and compromised child safety as a result of decisions being made by department staff, that the DCIP recommended that Florida return to the use of a traditional protective investigation for all reports.<sup>21</sup>
- During the 1998 session, legislation was enacted that incorporated all of the recommendations of the DCIP, as well as the mandated provisions of the newly enacted federal Adoption and Safe Families Act, and Florida's version of a differential response system was repealed.<sup>22</sup> As a result, all districts returned to the investigation of all child protective reports culminating in a finding associated with a child victim and perpetrator. Currently, Florida law does not allow for the use of a differential response system.
- In 2003, the Protective Investigation Retention Workgroup (PIRW) was formed under the direction of DCF for the purpose of examining a number of the issues relating to retention of protective investigators.<sup>23</sup> The product of the workgroup was a comprehensive set of recommendations, including development of a framework for a differential response system to be piloted in multiple sites.<sup>24,25</sup> Recommendations of the workgroup also resulted in legislation creating two types of investigative response: onsite and enhanced onsite.<sup>26</sup>

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<sup>19</sup> Alternative Response System Design Report, Prepared for the Florida Department of Children and Family Services by the Child Welfare Institute, December 2006.

<sup>20</sup> Florida's Dependency Court Improvement Program (DCIP) was established in 1995 when Congress funded a comprehensive research initiative to assess judicial management of foster care and adoption proceedings. The mandate to the highest court in every state was to assess the court's management of dependency cases to determine the level of compliance with the Adoption Assistance and Child Welfare Act and to develop an action plan to effect positive change in legislation, policy, judicial oversight, representation, and practice and procedure.

<sup>21</sup> The Florida Senate. Differential Response To Reports Of Child Abuse And Neglect. Interim Report 2011-105, October 2010.

<sup>22</sup> Ch. 98-403, L.O.F. CS/HB 1019. Part III of chapter 39, F.S., entitled Protective Investigations, was created and all calls accepted by the hotline as reports were required to be investigated.

<sup>23</sup> See Interim Project Report 2003-110, Retention of Protective Investigators and Protective Investigative Supervisors, Committee on Children and Families, The Florida Senate, January 2003. Available at: [http://www.flsenate.gov/data/Publications/2003/Senate/reports/interim\\_reports/pdf/2003-110cf.pdf](http://www.flsenate.gov/data/Publications/2003/Senate/reports/interim_reports/pdf/2003-110cf.pdf). (Last visited August 13, 2010.) and 24 Interim Project Report 2003-110, Retention of Protective Investigators Phase II, Committee on Children and Families, The Florida Senate, January 2003. Available at: [http://www.flsenate.gov/data/Publications/2004/Senate/reports/interim\\_reports/pdf/2004-113cf.pdf](http://www.flsenate.gov/data/Publications/2004/Senate/reports/interim_reports/pdf/2004-113cf.pdf). (Last visited August 13, 2010.)

<sup>24</sup> Protective Investigator Retention Workgroup, Report to the Legislature, Department of Children and Family Services, December 31, 2003.

<sup>25</sup> In 2005, the DCF Family Safety program office issued a Request for Proposal (RFP) for assistance in designing a differential response system pilot project in Florida. The program office limited the scope of the project to Bay, Duval, and Seminole counties. The pilots ran for six months, beginning in mid 2008, with mixed results. Florida's Alternative Response Pilot Final Summary Report, Florida Department of Children and Family Services, Family Safety Program Office, February, 2009.

<sup>26</sup> Ch. 2003-127, L.O.F.

- The department proposed legislation to implement a statewide differential response system for responding to reports of child abuse and neglect during the 2009 and 2010 legislative sessions.<sup>27</sup>

### **Chapter 39 Protective Injunctions**

Current law permits a court to issue an injunction to prevent an act of child abuse including protection from acts of domestic violence at any time after a protective investigation has been initiated, and there is reasonable cause for the injunction.<sup>28</sup> An injunction issued pursuant to chapter 39, F.S., may order an alleged or actual offender to:

- Refrain from further abuse or acts of domestic violence;
- Participate in a specialized treatment program;
- Limit contact or communication with the child victim, other children in the home, or any other child;
- Refrain from contacting the child at home, school, work, or wherever the child may be found;
- Have limited or supervised visitation with the child.;
- Pay temporary support for the child or other family members; the costs of medical, psychiatric, and psychological treatment for the child incurred as a result of the offenses; and similar costs for other family members; and
- Vacate the home in which the child resides.<sup>29</sup>

The injunction will remain in effect until modified or dissolved by the court, and is enforceable in all counties in the state, allowing law enforcement to exercise arrest powers in the enforcement of the injunction, if necessary.<sup>30</sup>

The department has reported that some judges do not interpret the law to allow for jurisdiction to attach to the dependency courts, when an injunction for protection under s. 39.504, F.S., is filed prior to, or in lieu of, a shelter or dependency petition. Judges are reluctant to advance a petition for injunction unless a dependency action is also filed because of this jurisdictional issue. Current law does not allow for a warrantless arrest.<sup>31</sup>

### **Termination of Parental Rights**

Current law provides that grounds for the termination of parental rights may be established under a number of circumstances, including when the parent of a child is incarcerated in a state or federal correctional institution and either:

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<sup>27</sup> See SB 2288 (2009) and SB 2676 (2010).

<sup>28</sup> s. 39.504, F.S.

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> Department of Children and Families. Staff Analysis and Economic Impact. HB 803. December 5, 2011. At the time of this analysis HB 803 and PSB 7166 were identical.

- The period of time for which the parent is expected to be incarcerated will constitute a substantial portion of the period of time before the child will attain the age of 18 years;
- The incarcerated parent has been determined by the court to be a violent career criminal as defined in s. 775.084, a habitual violent felony offender as defined in s. 775.084, or a sexual predator as defined in s. 775.21; has been convicted of first degree or second degree murder in violation of s. 782.04 or a sexual battery that constitutes a capital, life, or first degree felony violation of s. 794.011; or has been convicted of an offense in another jurisdiction which is substantially similar to one of the offenses listed in this paragraph,<sup>32</sup> or
- The court determines by clear and convincing evidence that continuing the parental relationship with the incarcerated parent would be harmful to the child and, for this reason, that termination of the parental rights of the incarcerated parent is in the best interest of the child.

The measurement of the child's remaining minority runs from the date the TPR petition is filed. The court is limited to relying solely on the length of the parent's sentence and may not consider the quality of that time in the child's development.<sup>33</sup> The court must consider whether the time for which a parent is expected to be incarcerated in the future constitutes a substantial portion of the time before the child reaches eighteen, not whether the time the parent has been incarcerated in the past was a substantial portion of the child's life to that point.<sup>34</sup>

Currently the courts interpret "substantial portion of the child's remaining minority" as a mathematical formula. In determining what constitutes a substantial portion of the child's remaining minority, the courts have found that 25 percent, 26 percent, 28.6 percent and 32 percent of the child's remaining minority was not substantial:

- *W.W. v. Department of Children and Families*, 811 So. 2d 791 (Fla. 4th DCA 2002) held that incarceration for a period constituting twenty-five percent of the child's minority was not a substantial portion of the child's minority. See also *B.C. v. Department of Children and Families*, 887 So. 2d 1046 (Fla. 2004).
- *A.W.*, 816 So. 2d at 1264 held that remaining incarceration constituting twenty-six percent and thirty-two percent of the remaining minority of the children did not constitute a substantial portion of child's minority.

### **Children and Youth Cabinet**

The Children and Youth Cabinet was created in 2007 for the purpose of ensuring that the public policy of the state relating to children and youth is developed to promote interdepartmental collaboration and program implementation in order that services designed for children and youth are planned, managed, and delivered in a holistic and integrated manner to improve the

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<sup>32</sup> As used in this section, the term "substantially similar offense" means any offense that is substantially similar in elements and penalties to one of those listed in this subparagraph, and that is in violation of a law of any other jurisdiction, whether that of another state, the District of Columbia, the United States or any possession or territory thereof, or any foreign jurisdiction.

<sup>33</sup> *In re A.W.*, 816 So. 2d 1261 (Fla. 2d DCA 2002).

<sup>34</sup> *In re J.D.C.*, 819 So. 2d 264 (Fla. 2d DCA 2002).

children's self-sufficiency, safety, economic stability, health, and quality of life.<sup>35</sup> The cabinet is currently required to meet at least six times each year in different regions of the state in order to solicit input from the public and any other individual offering testimony relevant to the issues considered. Each meeting must include a public comment session.<sup>36</sup>

### III. Effect of Proposed Changes:

#### Central Abuse Hotline

The department is currently making referrals known as "Special Condition Referrals" without statutory authority. The bill authorizes the department to refer calls to the central abuse hotline from parents or legal custodians who seek help, to voluntary community services after it is determined that the call does not meet the statutory threshold for a child protective investigation.

#### Child Protective Investigations

This bill proposes substantial changes to the child protective investigation process with the intent to strengthen the investigation process, streamline investigative activities, and provide a more focused framework for on-going services to be provided.<sup>37</sup> Current law provides for two types of investigative responses; "enhanced" and "onsite".<sup>38</sup> The abbreviated "onsite" investigative process, with the exception of minor requirement exemptions, mirrors the "enhanced" or "traditional" investigative process, and essentially renders them indistinguishable.<sup>39</sup> The department reports that due to the prescriptive nature of the current statute, child protective investigators are inhibited in developing different criteria and response protocols to effectively engage families. The department also reports that the current statute does not provide for differentiation between risk and safety that guides a child protective investigator's determination of response and service provision.<sup>40</sup>

The bill contains the following provisions related to child protective investigations:

- Provides DCF with discretion as to whether to file a dependency petition to the court when a child is in need of protection and supervision. Current law is deleted which requires that a dependency petition be filed when the child needs protection and supervision of the court and when the case is determined to be high risk;
- Requires that the case record for each child be electronic and include all information from reports called into the hotline and all services the child and the family has received;

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<sup>35</sup> Ch. 2007-151, L.O.F.

<sup>36</sup> s. 402.56, F.S.

<sup>37</sup> Following the death of Nubia Barahona, Secretary Wilkins convened the Child Protection Improvement Advisory Board to draft an "overhaul of the way DCF investigators handle child abuse cases, of the hotline that filters thousands of abuse calls annually and of the community agencies that serve foster families." Valdes, A. *Barahona death to spur Florida child protection overhaul*. Palm Beach Post. June 16, 2011. It is unclear whether the changes proposed in the bill are a result of the work of the advisory board.

<sup>38</sup> s. 39.301, F.S.

<sup>39</sup> *Id.*

<sup>40</sup> Department of Children and Families. Staff Analysis and Economic Impact. HB 803. December 5, 2011. At the time of this analysis HB 803 and PSB 7166 were identical.

- Removes several provisions from current law which provided conditions as to when a child protective investigation is to be performed. This is replaced with a general directive that each report from the hotline which is accepted, will be investigated and provides the following list of activities to be performed, some of which are already in current law:
  - Review all available information specific to the child and family and the alleged maltreatment including past family child welfare history, criminal records checks, and requests for law enforcement assistance provided by the hotline;
  - Interview collateral contacts, which may include professionals who know the child;
  - Conduct face-to-face interviews, including with the child's parent or caregiver; and
  - Assess the child's residence.

The bill contains the following new provisions related to the investigative process that require the department to:

- Determine the need for immediate consultation with law enforcement, child protection teams, domestic violence shelters and substance abuse and mental health professionals; and
  - Document impending dangers to the child based on safety assessment instruments as opposed to a risk assessment instrument which is required in current law. Neither the bill or current law defines "safety" or "risk". It is, therefore, not clear what change is intended by a safety assessment versus a risk assessment.
- Allows DCF or its authorized agent to discontinue all investigative activities at the point it is determined that a false report has been referred;
  - Establishes the Statewide Automated Child Welfare Information System as the single standard electronic case file on a child for centralized documentation and maintenance on services provided to child and family;
  - Requires the child protection investigator to determine the need for immediate consultation with law enforcement, child protection team, domestic violence shelter or advocate, and substance abuse or mental health resources prior to commencement of an investigation;
  - Authorizes the child protection investigator to close a case at various stages of an investigation when it is determined that a child is safe and there are no signs of impending danger;
  - Outlines the activities, training requirements and qualitative reviews that must be performed to enhance the skills of staff and improve the region's overall child protection system; and
  - Provides conditions under which an investigator may close a case and makes changes to the case review process to identify family strengths and weaknesses.

## Chapter 39 Protective Injunctions

The bill makes improvements and changes to the protective injunction process to prevent child abuse in s.39.504, F.S., and mirrors language in the civil injunction process in Chapter 741, F.S. The bill contains the following provisions related to protective injunctions under chapter 39, F.S.:

- Amends 39.013, F.S., related to court procedures and jurisdiction to specify that jurisdiction of the court attaches to a case when a petition for injunction to prevent child abuse has been issued pursuant to s. 39.504, F.S. Current law provides that court jurisdiction attaches to a case when petitions for shelter, dependency or termination of parental rights are filed or the child is taken into DCF custody. DCF reports that some courts will not recognize or hear an injunction unless a shelter, dependency or termination of parental rights petition has already been filed. This change will assist DCF by not requiring one of these other petitions when all that may be needed to resolve a situation is an injunction to protect the child;
- Establishes jurisdiction to enable courts to accept a domestic violence injunction filed by the department rather than the victim of such violence; and
- Effectuates the legislative intent of 2008 by creating a process similar to the procedures in adult domestic violence cases under Chapter 741, F.S., for the entry of an immediate injunction, which also protects the constitutionally-protected due process rights of the respondent. The department reports these changes are essential to providing a consistent and positive application of Chapter 39, F.S., injunctions.<sup>41</sup>

## Termination of Parental Rights

The Guardian Ad Litem Program reports that using a purely mathematical formula to determine termination of parental rights of an incarcerated parent does not support the provisions of chapter 39, F.S., where the primary consideration is for permanency and best interest of child.<sup>42</sup> The bill authorizes termination upon a “significant portion of the child’s minority” and replaces the forward mathematical time calculation with a qualitative review of the significance of the incarceration to a child’s life. The judicial review would begin on the date the parent entered the correctional institution rather than at the time of the filing of the TPR petition.

The bill also contains the following provisions related to termination of parental rights:

- Amends the timeframe for parents to comply with a case plan from 9 months to 12 months as it relates to grounds for termination of parental rights. This is a conforming change to other sections of law that already specify 12 months;<sup>43</sup> and
- Amends the definitions of the terms “abandoned” and “harm” to conform with changes made by the bill related to termination of parental rights when a parent is incarcerated;

<sup>41</sup> *Id.*

<sup>42</sup> Communication from Alan Abramowitz, Executive Director, Florida Statewide Guardian ad Litem Office, November 21, 2011. On file with the Committee on Children, Families, and Elder Affairs.

<sup>43</sup> See ss. 39.401, 39.6011, 39.621, 39.701, 39.8055, F.S.

**Additional Provisions**

The bill also does the following:

- The department reports that there are inconsistent interpretations around the state related to the background screening requirements for parents who are being considered for placement of a child and whether children who are 12 to 18 years of age should be fingerprinted. The bill clarifies that a criminal history records check on all persons, being considered by the department for placement of a child includes parents of the child and all members of the household 12 years of age or older; requires submission of fingerprints to the Florida Department of Law Enforcement (FDLE) on household members 18 years of age and older and on other visitors; and requires an out-of-state criminal history records check on any person 18 years of age or older who resided in another state if that state allows the release of such records;
- Requires the protective investigation of an institution to include an interview with the child's parent or legal guardian rather than an on-site visit of the child's place of residence;
- Eliminates the seven day requirement for an assessment of service and treatment needs regarding child-on-child sexual abuse reports, recognizing that assessments often can take longer than seven days;
- Clarifies that maintaining and strengthening families is a statutorily authorized case plan goal for children who remain in their homes under protective supervision; and
- Requires that the Children and Youth Cabinet must meet at least four times annually.

**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:**

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.

**FOR CONSIDERATION** By the Committee on Children, Families, and Elder Affairs

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1 A bill to be entitled  
 2 An act relating to child protection; amending s.  
 3 39.01, F.S.; revising the definitions of the term  
 4 "abandoned" or "abandonment," "institutional child  
 5 abuse or neglect," and "abandons the child within the  
 6 context of harm"; amending s. 39.013, F.S.; specifying  
 7 when jurisdiction attaches for a petition for an  
 8 injunction to prevent child abuse issued pursuant to  
 9 specified provisions; amending s. 39.0138, F.S.;  
 10 revising provisions relating to criminal history  
 11 records check on persons being considered for  
 12 placement of a child; requiring a records check  
 13 through the State Automated Child Welfare Information  
 14 System; providing for an out-of-state criminal history  
 15 records check of certain persons who have lived out of  
 16 state if such records may be obtained; amending s.  
 17 39.201, F.S.; providing procedures for calls from a  
 18 parent or legal custodian seeking assistance for  
 19 himself or herself which do not meet the criteria for  
 20 being a report of child abuse, abandonment, or  
 21 neglect, but show a potential future risk of harm to a  
 22 child and requiring a referral if a need for community  
 23 services exists; specifying that the central abuse  
 24 hotline is the first step in the safety assessment and  
 25 investigation process; amending s. 39.205, F.S.;  
 26 permitting discontinuance of an investigation of child  
 27 abuse, abandonment, or neglect during the course of  
 28 the investigation if it is determined that the report  
 29 was false; amending s. 39.301, F.S.; substituting

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30 references to a standard electronic child welfare case  
 31 for a master file; revising requirements for such a  
 32 file; revising requirements for informing the subject  
 33 of an investigation; deleting provisions relating to a  
 34 preliminary determination as to whether an  
 35 investigation report is complete; revising  
 36 requirements for child protective investigation  
 37 activities to be performed to determine child safety;  
 38 specifying uses for certain criminal justice  
 39 information accesses by child protection  
 40 investigators; requiring documentation of the present  
 41 and impending dangers to each child through use of a  
 42 standardized safety assessment; revising provisions  
 43 relating to required protective, treatment, and  
 44 ameliorative services; revising requirements for the  
 45 Department of Children and Family Service's training  
 46 program for staff responsible for responding to  
 47 reports accepted by the central abuse hotline;  
 48 requiring the department's training program at the  
 49 regional and district levels to include results of  
 50 qualitative reviews of child protective investigation  
 51 cases handled within the region or district; revising  
 52 requirements for the department's quality assurance  
 53 program; amending s. 39.302, F.S.; requiring that a  
 54 protective investigation must include an interview  
 55 with the child's parent or legal guardian; amending s.  
 56 39.307, F.S.; requiring the department, contracted  
 57 sheriff's office providing protective investigation  
 58 services, or contracted case management personnel

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59 responsible for providing services to adhere to  
 60 certain procedures relating to reports of child-on-  
 61 child sexual abuse; deleting a requirement that an  
 62 assessment of service and treatment needs to be  
 63 completed within a specified period; amending s.  
 64 39.504, F.S.; revising provisions relating to the  
 65 process for seeking a child protective injunction;  
 66 providing for temporary ex parte injunctions;  
 67 providing requirements for service on an alleged  
 68 offender; revising provisions relating to the contents  
 69 of an injunction; providing for certain relief;  
 70 providing requirements for notice of a hearing on a  
 71 motion to modify or dissolve an injunction; providing  
 72 that a person against whom an injunction is entered  
 73 does not automatically become a party to a subsequent  
 74 dependency action concerning the same child unless he  
 75 or she was a party to the action in which the  
 76 injunction was entered; amending s. 39.521, F.S.;  
 77 requiring a home study report if a child has been  
 78 removed from the home and will be remaining with a  
 79 parent; substituting references to the State Automated  
 80 Child Welfare Information System for the Florida Abuse  
 81 Hotline Information System applicable to records  
 82 checks; authorizing submission of fingerprints of  
 83 certain household members; authorizing requests for  
 84 national criminal history checks and fingerprinting of  
 85 any visitor to the home known to the department;  
 86 amending s. 39.6011, F.S.; providing additional  
 87 options for the court with respect to case plans;

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88 providing for expiration of a child's case plan no  
 89 later than 12 months after the date the child was  
 90 adjudicated dependent; conforming a cross-reference to  
 91 changes made by the act; amending s. 39.621, F.S.;  
 92 revising terminology relating to permanency  
 93 determinations; amending s. 39.701, F.S.; providing  
 94 that a court must schedule a judicial review hearing  
 95 if the citizen review panel recommends extending the  
 96 goal of reunification for any case plan beyond 12  
 97 months from the date the child was adjudicated  
 98 dependent, unless specified other events occurred  
 99 earlier; conforming a cross-reference to changes made  
 100 by the act; amending s. 39.8055, F.S.; requiring the  
 101 department to file a petition to terminate parental  
 102 rights within a certain number of days after the  
 103 completion of a specified period after the child was  
 104 sheltered or adjudicated dependent, whichever occurs  
 105 first; amending s. 39.806, F.S.; providing additional  
 106 criteria for the court to consider when deciding  
 107 whether to terminate the parental rights of a parent  
 108 or legal guardian because the parent or legal guardian  
 109 is incarcerated; increasing the number of months of  
 110 failure of the parent or parents to substantially  
 111 comply with a child's case plan in certain  
 112 circumstances that constitutes evidence of continuing  
 113 abuse, neglect, or abandonment and grounds for  
 114 termination of parental rights; revising a cross-  
 115 reference; clarifying applicability of certain  
 116 amendments made by the act; amending ss. 39.502,

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117 39.823, and 39.828, F.S.; conforming cross-references  
 118 to changes made by the act; amending s. 402.56, F.S.;  
 119 directing the Children and Youth Cabinet to meet at  
 120 least four times per year rather than six times per  
 121 year; providing an effective date.

122  
 123 Be It Enacted by the Legislature of the State of Florida:

124  
 125 Section 1. Subsection (1), paragraph (e) of subsection  
 126 (32), and subsection (33) of section 39.01, Florida Statutes,  
 127 are amended to read:

128 39.01 Definitions.—When used in this chapter, unless the  
 129 context otherwise requires:

130 (1) "Abandoned" or "abandonment" means a situation in which  
 131 the parent or legal custodian of a child or, in the absence of a  
 132 parent or legal custodian, the caregiver, while being able, has  
 133 made ~~makes~~ no significant contribution to the child's care and  
 134 maintenance or ~~provision for the child's support and~~  
 135 to establish or maintain a substantial and positive relationship  
 136 with the child, or both. For purposes of this subsection,  
 137 "establish or maintain a substantial and positive relationship"  
 138 includes, but is not limited to, frequent and regular contact  
 139 with the child through frequent and regular visitation or  
 140 frequent and regular communication to or with the child, and the  
 141 exercise of parental rights and responsibilities. Marginal  
 142 efforts and incidental or token visits or communications are not  
 143 sufficient to establish or maintain a substantial and positive  
 144 relationship with a child. The term does not include a  
 145 surrendered newborn infant as described in s. 383.50, a "child

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146 in need of services" as defined in chapter 984, or a "family in  
 147 need of services" as defined in chapter 984. The incarceration,  
 148 repeated incarceration, or extended incarceration of a parent,  
 149 legal custodian, or caregiver responsible for a child's welfare  
 150 may support a finding of abandonment.

151 (32) "Harm" to a child's health or welfare can occur when  
 152 any person:

153 (e) Abandons the child. Within the context of the  
 154 definition of "harm," the term "abandoned the child" or  
 155 "abandonment of the child" means a situation in which the parent  
 156 or legal custodian of a child or, in the absence of a parent or  
 157 legal custodian, the caregiver, while being able, has made ~~makes~~  
 158 no significant contribution to the child's care and maintenance  
 159 or ~~provision for the child's support and~~ and has failed to establish  
 160 or maintain a substantial and positive relationship with the  
 161 child, or both. For purposes of this paragraph, "establish or  
 162 maintain a substantial and positive relationship" includes, but  
 163 is not limited to, frequent and regular contact with the child  
 164 through frequent and regular visitation or frequent and regular  
 165 communication to or with the child, and the exercise of parental  
 166 rights and responsibilities. Marginal efforts and incidental or  
 167 token visits or communications are not sufficient to establish  
 168 or maintain a substantial and positive relationship with a  
 169 child. The term "abandoned" does not include a surrendered  
 170 newborn infant as described in s. 383.50, a child in need of  
 171 services as defined in chapter 984, or a family in need of  
 172 services as defined in chapter 984. The incarceration, repeated  
 173 incarceration, or extended incarceration of a parent, legal  
 174 custodian, or caregiver responsible for a child's welfare may

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175 support a finding of abandonment.

176 (33) "Institutional child abuse or neglect" means  
 177 situations of known or suspected child abuse or neglect in which  
 178 the person allegedly perpetrating the child abuse or neglect is  
 179 an employee of a private school, public or private day care  
 180 center, residential home, institution, facility, or agency or  
 181 any other person at such institution responsible for the child's  
 182 care as defined in subsection (47).

183 Section 2. Subsection (2) of section 39.013, Florida  
 184 Statutes, is amended to read:

185 39.013 Procedures and jurisdiction; right to counsel.-

186 (2) The circuit court has exclusive original jurisdiction  
 187 of all proceedings under this chapter, of a child voluntarily  
 188 placed with a licensed child-caring agency, a licensed child-  
 189 placing agency, or the department, and of the adoption of  
 190 children whose parental rights have been terminated under this  
 191 chapter. Jurisdiction attaches when the initial shelter  
 192 petition, dependency petition, or termination of parental rights  
 193 petition, or a petition for an injunction to prevent child abuse  
 194 issued pursuant to s. 39.504, is filed or when a child is taken  
 195 into the custody of the department. The circuit court may assume  
 196 jurisdiction over any such proceeding regardless of whether the  
 197 child was in the physical custody of both parents, was in the  
 198 sole legal or physical custody of only one parent, caregiver, or  
 199 some other person, or was not in the physical or legal custody  
 200 of any ~~no~~ person when the event or condition occurred that  
 201 brought the child to the attention of the court. When the court  
 202 obtains jurisdiction of any child who has been found to be  
 203 dependent, the court shall retain jurisdiction, unless

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204 relinquished by its order, until the child reaches 18 years of  
 205 age. However, if a youth petitions the court at any time before  
 206 his or her 19th birthday requesting the court's continued  
 207 jurisdiction, the juvenile court may retain jurisdiction under  
 208 this chapter for a period not to exceed 1 year following the  
 209 youth's 18th birthday for the purpose of determining whether  
 210 appropriate aftercare support, Road-to-Independence Program,  
 211 transitional support, mental health, and developmental  
 212 disability services, to the extent otherwise authorized by law,  
 213 have been provided to the formerly dependent child who was in  
 214 the legal custody of the department immediately before his or  
 215 her 18th birthday. If a petition for special immigrant juvenile  
 216 status and an application for adjustment of status have been  
 217 filed on behalf of a foster child and the petition and  
 218 application have not been granted by the time the child reaches  
 219 18 years of age, the court may retain jurisdiction over the  
 220 dependency case solely for the purpose of allowing the continued  
 221 consideration of the petition and application by federal  
 222 authorities. Review hearings for the child shall be set solely  
 223 for the purpose of determining the status of the petition and  
 224 application. The court's jurisdiction terminates upon the final  
 225 decision of the federal authorities. Retention of jurisdiction  
 226 in this instance does not affect the services available to a  
 227 young adult under s. 409.1451. The court may not retain  
 228 jurisdiction of the case after the immigrant child's 22nd  
 229 birthday.

230 Section 3. Section 39.0138, Florida Statutes, is amended to  
 231 read:

232 39.0138 Criminal history and other records checks ~~check~~;

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233 limit on placement of a child.-

234 (1) The department shall conduct a records check through  
 235 the State Automated Child Welfare Information System (SACWIS)  
 236 and a local and statewide criminal history records check on all  
 237 persons, including parents, being considered by the department  
 238 for placement of a child ~~subject to a placement decision~~ under  
 239 this chapter, including all nonrelative placement decisions, and  
 240 all members of the household, 12 years of age and older, of the  
 241 person being considered, ~~and frequent visitors to the household~~.  
 242 For purposes of this section, a criminal history records check  
 243 may include, but is not limited to, submission of fingerprints  
 244 to the Department of Law Enforcement for processing and  
 245 forwarding to the Federal Bureau of Investigation for state and  
 246 national criminal history information, and local criminal  
 247 records checks through local law enforcement agencies of all  
 248 household members 18 years of age and older and other visitors  
 249 to the home. An out-of-state criminal history records check must  
 250 be initiated for any person 18 years of age or older who resided  
 251 in another state if that state allows the release of such  
 252 records. A criminal history records check must also include a  
 253 ~~search of the department's automated abuse information system.~~  
 254 The department shall establish by rule standards for evaluating  
 255 any information contained in the automated system relating to a  
 256 person who must be screened for purposes of making a placement  
 257 decision.

258 (2) The department may not place a child with a person  
 259 other than a parent if the criminal history records check  
 260 reveals that the person has been convicted of any felony that  
 261 falls within any of the following categories:

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262 (a) Child abuse, abandonment, or neglect;  
 263 (b) Domestic violence;  
 264 (c) Child pornography or other felony in which a child was  
 265 a victim of the offense; or  
 266 (d) Homicide, sexual battery, or other felony involving  
 267 violence, other than felony assault or felony battery when an  
 268 adult was the victim of the assault or battery.  
 269 (3) The department may not place a child with a person  
 270 other than a parent if the criminal history records check  
 271 reveals that the person has, within the previous 5 years, been  
 272 convicted of a felony that falls within any of the following  
 273 categories:  
 274 (a) Assault;  
 275 (b) Battery; or  
 276 (c) A drug-related offense.  
 277 (4) The department may place a child in a home that  
 278 otherwise meets placement requirements if a name check of state  
 279 and local criminal history records systems does not disqualify  
 280 the applicant and if the department submits fingerprints to the  
 281 Department of Law Enforcement for forwarding to the Federal  
 282 Bureau of Investigation and is awaiting the results of the state  
 283 and national criminal history records check.  
 284 (5) Persons with whom placement of a child is being  
 285 considered or approved must disclose to the department any prior  
 286 or pending local, state, or national criminal proceedings in  
 287 which they are or have been involved.  
 288 (6) The department may examine the results of any criminal  
 289 history records check of any person, including a parent, with  
 290 whom placement of a child is being considered under this

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291 section. The complete criminal history records check must be  
 292 considered when determining whether placement with the person  
 293 will jeopardize the safety of the child being placed.

294 (7) (a) The court may review a decision of the department to  
 295 grant or deny the placement of a child based upon information  
 296 from the criminal history records check. The review may be upon  
 297 the motion of any party, the request of any person who has been  
 298 denied a placement by the department, or on the court's own  
 299 motion. The court shall prepare written findings to support its  
 300 decision in this matter.

301 (b) A person who is seeking placement of a child but is  
 302 denied the placement because of the results of a criminal  
 303 history records check has the burden of setting forth sufficient  
 304 evidence of rehabilitation to show that the person will not  
 305 present a danger to the child if the placement of the child is  
 306 allowed. Evidence of rehabilitation may include, but is not  
 307 limited to, the circumstances surrounding the incident providing  
 308 the basis for denying the application, the time period that has  
 309 elapsed since the incident, the nature of the harm caused to the  
 310 victim, whether the victim was a child, the history of the  
 311 person since the incident, whether the person has complied with  
 312 any requirement to pay restitution, and any other evidence or  
 313 circumstances indicating that the person will not present a  
 314 danger to the child if the placement of the child is allowed.

315 Section 4. Paragraph (a) of subsection (2) and subsection  
 316 (4) of section 39.201, Florida Statutes, are amended to read:

317 39.201 Mandatory reports of child abuse, abandonment, or  
 318 neglect; mandatory reports of death; central abuse hotline.-

319 (2) (a) Each report of known or suspected child abuse,

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320 abandonment, or neglect by a parent, legal custodian, caregiver,  
 321 or other person responsible for the child's welfare as defined  
 322 in this chapter, except those solely under s. 827.04(3), and  
 323 each report that a child is in need of supervision and care and  
 324 has no parent, legal custodian, or responsible adult relative  
 325 immediately known and available to provide supervision and care  
 326 shall be made immediately to the department's central abuse  
 327 hotline. Such reports may be made on the single statewide toll-  
 328 free telephone number or via fax or web-based report. Personnel  
 329 at the department's central abuse hotline shall determine if the  
 330 report received meets the statutory definition of child abuse,  
 331 abandonment, or neglect. Any report meeting one of these  
 332 definitions shall be accepted for the protective investigation  
 333 pursuant to part III of this chapter. Any call received from a  
 334 parent or legal custodian seeking assistance for himself or  
 335 herself which does not meet the criteria for being a report of  
 336 child abuse, abandonment, or neglect may be accepted by the  
 337 hotline for response to ameliorate a potential future risk of  
 338 harm to a child. If it is determined by a child welfare  
 339 professional that a need for community services exists, the  
 340 department shall refer the parent or legal custodian for  
 341 appropriate voluntary community services.

342 (4) The department shall ~~operate~~ establish and maintain a  
 343 central abuse hotline to receive all reports made pursuant to  
 344 this section in writing, via fax, via web-based reporting, or  
 345 through a single statewide toll-free telephone number, which any  
 346 person may use to report known or suspected child abuse,  
 347 abandonment, or neglect at any hour of the day or night, any day  
 348 of the week. The central abuse hotline is the first step in the

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349 safety assessment and investigation process. The central abuse  
350 hotline shall be operated in such a manner as to enable the  
351 department to:

352 (a) Immediately identify and locate prior reports or cases  
353 of child abuse, abandonment, or neglect through utilization of  
354 the department's automated tracking system.

355 (b) Monitor and evaluate the effectiveness of the  
356 department's program for reporting and investigating suspected  
357 abuse, abandonment, or neglect of children through the  
358 development and analysis of statistical and other information.

359 (c) Track critical steps in the investigative process to  
360 ensure compliance with all requirements for any report of abuse,  
361 abandonment, or neglect.

362 (d) Maintain and produce aggregate statistical reports  
363 monitoring patterns of child abuse, child abandonment, and child  
364 neglect. The department shall collect and analyze child-on-child  
365 sexual abuse reports and include the information in aggregate  
366 statistical reports.

367 (e) Serve as a resource for the evaluation, management, and  
368 planning of preventive and remedial services for children who  
369 have been subject to abuse, abandonment, or neglect.

370 (f) Initiate and enter into agreements with other states  
371 for the purpose of gathering and sharing information contained  
372 in reports on child maltreatment to further enhance programs for  
373 the protection of children.

374 Section 5. Subsections (3) and (5) of section 39.205,  
375 Florida Statutes, are amended to read:

376 39.205 Penalties relating to reporting of child abuse,  
377 abandonment, or neglect.—

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378 (3) A person who knowingly and willfully makes public or  
379 discloses any confidential information contained in the central  
380 abuse hotline or in the records of any child abuse, abandonment,  
381 or neglect case, except as provided in this chapter, commits ~~is~~  
382 ~~guilty of~~ a misdemeanor of the second degree, punishable as  
383 provided in s. 775.082 or s. 775.083.

384 (5) If the department or its authorized agent has  
385 determined during the course of ~~after~~ its investigation that a  
386 report is a false report, the department may discontinue all  
387 investigative activities and shall, with the consent of the  
388 alleged perpetrator, refer the report to the local law  
389 enforcement agency having jurisdiction for an investigation to  
390 determine whether sufficient evidence exists to refer the case  
391 for prosecution for filing a false report as defined in s.  
392 39.01. During the pendency of the investigation, the department  
393 must notify the local law enforcement agency of, and the local  
394 law enforcement agency must respond to, all subsequent reports  
395 concerning children in that same family in accordance with s.  
396 39.301. If the law enforcement agency believes that there are  
397 indicators of abuse, abandonment, or neglect, it must  
398 immediately notify the department, which must ensure the safety  
399 of the children. If the law enforcement agency finds sufficient  
400 evidence for prosecution for filing a false report, it must  
401 refer the case to the appropriate state attorney for  
402 prosecution.

403 Section 6. Section 39.301, Florida Statutes, is amended to  
404 read:

405 39.301 Initiation of protective investigations.—

406 (1) Upon receiving a report of known or suspected child

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407 abuse, abandonment, or neglect, or that a child is in need of  
 408 supervision and care and has no parent, legal custodian, or  
 409 responsible adult relative immediately known and available to  
 410 provide supervision and care, the central abuse hotline shall  
 411 determine if the report requires an immediate onsite protective  
 412 investigation. For reports requiring an immediate onsite  
 413 protective investigation, the central abuse hotline shall  
 414 immediately notify the department's designated district staff  
 415 responsible for protective investigations to ensure that an  
 416 onsite investigation is promptly initiated. For reports not  
 417 requiring an immediate onsite protective investigation, the  
 418 central abuse hotline shall notify the department's designated  
 419 district staff responsible for protective investigations in  
 420 sufficient time to allow for an investigation. At the time of  
 421 notification, the central abuse hotline shall also provide  
 422 information to district staff on any previous report concerning  
 423 a subject of the present report or any pertinent information  
 424 relative to the present report or any noted earlier reports.

425 (2) (a) The department shall immediately forward allegations  
 426 of criminal conduct to the municipal or county law enforcement  
 427 agency of the municipality or county in which the alleged  
 428 conduct has occurred.

429 (b) As used in this subsection, the term "criminal conduct"  
 430 means:

431 1. A child is known or suspected to be the victim of child  
 432 abuse, as defined in s. 827.03, or of neglect of a child, as  
 433 defined in s. 827.03.

434 2. A child is known or suspected to have died as a result  
 435 of abuse or neglect.

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436 3. A child is known or suspected to be the victim of  
 437 aggravated child abuse, as defined in s. 827.03.

438 4. A child is known or suspected to be the victim of sexual  
 439 battery, as defined in s. 827.071, or of sexual abuse, as  
 440 defined in s. 39.01.

441 5. A child is known or suspected to be the victim of  
 442 institutional child abuse or neglect, as defined in s. 39.01,  
 443 and as provided for in s. 39.302(1).

444 6. A child is known or suspected to be a victim of human  
 445 trafficking, as provided in s. 787.06.

446 (c) Upon receiving a written report of an allegation of  
 447 criminal conduct from the department, the law enforcement agency  
 448 shall review the information in the written report to determine  
 449 whether a criminal investigation is warranted. If the law  
 450 enforcement agency accepts the case for criminal investigation,  
 451 it shall coordinate its investigative activities with the  
 452 department, whenever feasible. If the law enforcement agency  
 453 does not accept the case for criminal investigation, the agency  
 454 shall notify the department in writing.

455 (d) The local law enforcement agreement required in s.  
 456 39.306 shall describe the specific local protocols for  
 457 implementing this section.

458 (3) The department shall maintain a single, standard  
 459 electronic child welfare case ~~master~~ file for each child whose  
 460 report is accepted by the central abuse hotline for  
 461 investigation. Such file must contain information concerning all  
 462 reports received by the abuse hotline concerning that child and  
 463 all services received by that child and family. The file must be  
 464 made available to any department staff, agent of the department,

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465 or contract provider given responsibility for conducting a  
466 protective investigation.

467 (4) To the extent practical, all protective investigations  
468 involving a child shall be conducted or the work supervised by a  
469 single individual in order for there to be broad knowledge and  
470 understanding of the child's history. When a new investigator is  
471 assigned to investigate a second and subsequent report involving  
472 a child, a multidisciplinary staffing shall be conducted which  
473 includes new and prior investigators, their supervisors, and  
474 appropriate private providers in order to ensure that, to the  
475 extent possible, there is coordination among all parties. The  
476 department shall establish an internal operating procedure that  
477 ensures that all required investigatory activities, including a  
478 review of the child's complete investigative and protective  
479 services history, are completed by the investigator, reviewed by  
480 the supervisor in a timely manner, and signed and dated by both  
481 the investigator and the supervisor.

482 (5) (a) Upon commencing an investigation under this part,  
483 the child protective investigator shall inform any subject of  
484 the investigation of the following:

- 485 1. The names of the investigators and identifying  
486 credentials from the department.
- 487 2. The purpose of the investigation.
- 488 3. The right to obtain his or her own attorney and ways  
489 that the information provided by the subject may be used.
- 490 4. The possible outcomes and services of the department's  
491 response ~~shall be explained to the parent or legal custodian.~~
- 492 5. The right of the parent or legal custodian to be engaged  
493 ~~involved~~ to the fullest extent possible in determining the

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494 nature of the allegation and the nature of any identified  
495 problem and the remedy.

496 6. The duty of the parent or legal custodian to report any  
497 change in the residence or location of the child to the  
498 investigator and that the duty to report continues until the  
499 investigation is closed.

500 (b) The investigator shall ~~department's training program~~  
501 ~~shall ensure that protective investigators know how to fully~~  
502 inform parents or legal custodians of their rights and options,  
503 including opportunities for audio or video recording of  
504 investigators' interviews with parents or legal custodians or  
505 children.

506 (6) Upon commencing an investigation under this part, if a  
507 report was received from a reporter under s. 39.201(1)(b), the  
508 protective investigator must provide his or her contact  
509 information to the reporter within 24 hours after being assigned  
510 to the investigation. The investigator must also advise the  
511 reporter that he or she may provide a written summary of the  
512 report made to the central abuse hotline to the investigator  
513 which shall become a part of the electronic child welfare case  
514 ~~master~~ file.

515 (7) An assessment of safety risk ~~risk~~ and the perceived needs  
516 for the child and family shall be conducted in a manner that is  
517 sensitive to the social, economic, and cultural environment of  
518 the family. This assessment must include a face-to-face  
519 interview with the child, other siblings, parents, and other  
520 adults in the household and an onsite assessment of the child's  
521 residence.

522 (8) Protective investigations shall be performed by the

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523 department or its agent.

524 ~~(9) The person responsible for the investigation shall make~~  
 525 ~~a preliminary determination as to whether the report is~~  
 526 ~~complete, consulting with the attorney for the department when~~  
 527 ~~necessary. In any case in which the person responsible for the~~  
 528 ~~investigation finds that the report is incomplete, he or she~~  
 529 ~~shall return it without delay to the person or agency~~  
 530 ~~originating the report or having knowledge of the facts, or to~~  
 531 ~~the appropriate law enforcement agency having investigative~~  
 532 ~~jurisdiction, and request additional information in order to~~  
 533 ~~complete the report; however, the confidentiality of any report~~  
 534 ~~filed in accordance with this chapter shall not be violated.~~

535 ~~(a) If it is determined that the report is complete, but~~  
 536 ~~the interests of the child and the public will be best served by~~  
 537 ~~providing the child care or other treatment voluntarily accepted~~  
 538 ~~by the child and the parents or legal custodians, the protective~~  
 539 ~~investigator may refer the parent or legal custodian and child~~  
 540 ~~for such care or other treatment.~~

541 ~~(b) If it is determined that the child is in need of the~~  
 542 ~~protection and supervision of the court, the department shall~~  
 543 ~~file a petition for dependency. A petition for dependency shall~~  
 544 ~~be filed in all cases classified by the department as high risk.~~  
 545 ~~Factors that the department may consider in determining whether~~  
 546 ~~a case is high-risk include, but are not limited to, the young~~  
 547 ~~age of the parents or legal custodians; the use of illegal~~  
 548 ~~drugs; the arrest of the parents or legal custodians on charges~~  
 549 ~~of manufacturing, processing, disposing of, or storing, either~~  
 550 ~~temporarily or permanently, any substances in violation of~~  
 551 ~~chapter 893; or domestic violence.~~

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552 ~~(e) If a petition for dependency is not being filed by the~~  
 553 ~~department, the person or agency originating the report shall be~~  
 554 ~~advised of the right to file a petition pursuant to this part.~~

555 (9)(10)(a) For each report received from the central abuse  
 556 hotline and accepted for investigation that meets one or more of  
 557 the following criteria, the department or the sheriff providing  
 558 child protective investigative services under s. 39.3065, shall  
 559 perform the following on-site child protective investigation  
 560 activities to determine child safety:

561 1. Conduct a review of all relevant, available information  
 562 specific to the child and family and alleged maltreatment;  
 563 family child welfare history; local, state, and federal criminal  
 564 records checks; and requests for law enforcement assistance  
 565 provided by the abuse hotline. Based on a review of available  
 566 information, including the allegations in the current report, a  
 567 determination shall be made as to whether immediate consultation  
 568 should occur with law enforcement, the child protection team, a  
 569 domestic violence shelter or advocate, or a substance abuse or  
 570 mental health professional. Such consultations should include  
 571 discussion as to whether a joint response is necessary and  
 572 feasible. A determination shall be made as to whether the person  
 573 making the report should be contacted before the face-to-face  
 574 interviews with the child and family members. A report for which  
 575 there is obvious compelling evidence that no maltreatment  
 576 occurred and there are no prior reports containing some  
 577 indicators or verified findings of abuse or neglect with respect  
 578 to any subject of the report or other individuals in the home. A  
 579 prior report in which an adult in the home was a victim of abuse  
 580 or neglect before becoming an adult does not exclude a report

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581 otherwise meeting the criteria of this subparagraph from the  
 582 onsite child protective investigation provided for in this  
 583 subparagraph. The process for an onsite child protective  
 584 investigation stipulated in this subsection may not be conducted  
 585 if an allegation meeting the criteria of this subparagraph  
 586 involves physical abuse, sexual abuse, domestic violence,  
 587 substance abuse or substance exposure, medical neglect, a child  
 588 younger than 3 years of age, or a child who is disabled or lacks  
 589 communication skills.

590 2. Conduct A report concerning an incident of abuse which  
 591 is alleged to have occurred 2 or more years prior to the date of  
 592 the report and there are no other indicators of risk to any  
 593 child in the home.

594 (b) The onsite child protective investigation to be  
 595 performed shall include a face-to-face interviews interview with  
 596 the child; other siblings, if any; and the parents, legal  
 597 custodians, or caregivers, ; and other adults in the household  
 598 and an onsite assessment of the child's residence in order to:

599 3.1- Assess the child's residence, including a  
 600 determination of ~~Determine~~ the composition of the family and ~~or~~  
 601 household, including the name, address, date of birth, social  
 602 security number, sex, and race of each child named in the  
 603 report; any siblings or other children in the same household or  
 604 in the care of the same adults; the parents, legal custodians,  
 605 or caregivers; and any other adults in the same household.

606 4.2- Determine whether there is any indication that any  
 607 child in the family or household has been abused, abandoned, or  
 608 neglected; the nature and extent of present or prior injuries,  
 609 abuse, or neglect, and any evidence thereof; and a determination

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610 as to the person or persons apparently responsible for the  
 611 abuse, abandonment, or neglect, including the name, address,  
 612 date of birth, social security number, sex, and race of each  
 613 such person.

614 5.3- Complete assessment of immediate child safety for  
 615 Determine the immediate and long-term risk to each child based  
 616 on available records, interviews, and observations with all  
 617 persons named in subparagraph 2. and appropriate collateral  
 618 contacts, which may include other professionals by conducting  
 619 state and federal records checks, including, when feasible, the  
 620 records of the Department of Corrections, on the parents, legal  
 621 custodians, or caregivers, and any other persons in the same  
 622 household. This information shall be used solely for purposes  
 623 supporting the detection, apprehension, prosecution, pretrial  
 624 release, posttrial release, or rehabilitation of criminal  
 625 offenders or persons accused of the crimes of child abuse,  
 626 abandonment, or neglect and shall not be further disseminated or  
 627 used for any other purpose. The department's child protection  
 628 investigators are hereby designated a criminal justice agency  
 629 for the purpose of accessing criminal justice information to be  
 630 used for enforcing this state's laws concerning the crimes of  
 631 child abuse, abandonment, and neglect. This information shall be  
 632 used solely for purposes supporting the detection, apprehension,  
 633 prosecution, pretrial release, posttrial release, or  
 634 rehabilitation of criminal offenders or persons accused of the  
 635 crimes of child abuse, abandonment, or neglect and may not be  
 636 further disseminated or used for any other purpose.

637 6.4- Document the present and impending dangers ~~Determine~~  
 638 ~~the immediate and long-term risk to each child based on the~~

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639 identification of inadequate protective capacity through  
 640 utilization of a standardized safety risk assessment instrument  
 641 instruments.

642 (b) Upon completion of the immediate safety assessment, the  
 643 department shall determine the additional activities necessary  
 644 to assess impending dangers, if any, and close the  
 645 investigation.

646 ~~5. Based on the information obtained from available~~  
 647 ~~sources, complete the risk assessment instrument within 48 hours~~  
 648 ~~after the initial contact and, if needed, develop a case plan.~~

649 ~~(c) 6. For each report received from the central abuse~~  
 650 ~~hotline, the department or the sheriff providing child~~  
 651 ~~protective investigative services under s. 39.3065, shall~~  
 652 ~~determine the protective, treatment, and ameliorative services~~  
 653 ~~necessary to safeguard and ensure the child's safety and well-~~  
 654 ~~being and development, and cause the delivery of those services~~  
 655 ~~through the early intervention of the department or its agent.~~  
 656 ~~As applicable, The training provided to staff members who~~  
 657 ~~conduct child protective investigators investigations must~~  
 658 ~~inform parents and caregivers include instruction on how and~~  
 659 ~~when to use the injunction process under s. 39.504 or s. 741.30~~  
 660 ~~to remove a perpetrator of domestic violence from the home as an~~  
 661 ~~intervention to protect the child.~~

662 1. If the department or the sheriff providing child  
 663 protective investigative services determines that the interests  
 664 of the child and the public will be best served by providing the  
 665 child care or other treatment voluntarily accepted by the child  
 666 and the parents or legal custodians, the parent or legal  
 667 custodian and child may be referred for such care, case

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668 management, or other community resources.

669 2. If the department or the sheriff providing child  
 670 protective investigative services determines that the child is  
 671 in need of protection and supervision, the department may file a  
 672 petition for dependency.

673 3. If a petition for dependency is not being filed by the  
 674 department, the person or agency originating the report shall be  
 675 advised of the right to file a petition pursuant to this part.

676 ~~(e) The determination that a report requires an~~  
 677 ~~investigation as provided in this subsection and does not~~  
 678 ~~require an enhanced onsite child protective investigation~~  
 679 ~~pursuant to subsection (11) must be approved in writing by the~~  
 680 ~~supervisor with documentation specifying why additional~~  
 681 ~~investigative activities are not necessary.~~

682 ~~(d) A report that meets the criteria specified in this~~  
 683 ~~subsection is not precluded from further investigative~~  
 684 ~~activities. At any time it is determined that additional~~  
 685 ~~investigative activities are necessary for the safety of the~~  
 686 ~~child, such activities shall be conducted.~~

687 ~~(10)-(11)~~ (a) The department's training program for staff  
 688 responsible for responding to reports accepted by the central  
 689 abuse hotline must also ensure that child protective responders:

690 1. Know how to fully inform parents or legal custodians of  
 691 their rights and options, including opportunities for audio or  
 692 video recording of child protective responder interviews with  
 693 parents or legal custodians or children.

694 2. Know how and when to use the injunction process under s.  
 695 39.504 or s. 741.30 to remove a perpetrator of domestic violence  
 696 from the home as an intervention to protect the child.

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697 (b) To enhance the skills of individual staff members and  
 698 to improve the region's and district's overall child protection  
 699 system, the department's training program at the regional and  
 700 district levels must include results of qualitative reviews of  
 701 child protective investigation cases handled within the region  
 702 or district in order to identify weaknesses as well as examples  
 703 of effective interventions which occurred at each point in the  
 704 case. For each report that meets one or more of the following  
 705 criteria, the department shall perform an enhanced onsite child  
 706 protective investigation:

- 707 1. Any allegation that involves physical abuse, sexual
- 708 abuse, domestic violence, substance abuse or substance exposure,
- 709 medical neglect, a child younger than 3 years of age, or a child
- 710 who is disabled or lacks communication skills.
- 711 2. Any report that involves an individual who has been the
- 712 subject of a prior report containing some indicators or verified
- 713 findings of abuse, neglect, or abandonment.
- 714 3. Any report that does not contain compelling evidencee
- 715 that the maltreatment did not occur.
- 716 4. Any report that does not meet the criteria for an onsite
- 717 child protective investigation as set forth in subsection (10).

718 ~~(b) The enhanced onsite child protective investigation~~  
 719 ~~shall include, but is not limited to:~~

- 720 1. A face-to-face interview with the child, other siblings,
- 721 parents or legal custodians or caregivers, and other adults in
- 722 the household;
- 723 2. Collateral contacts;
- 724 3. Contact with the reporter as required by rule;
- 725 4. An onsite assessment of the child's residence in

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726 ~~accordance with paragraph (10)(b); and~~  
 727 ~~5. An updated assessment.~~  
 728 (c) For all reports received, detailed documentation is  
 729 required for the investigative activities.

730 ~~(11)-(12)~~ The department shall incorporate into its quality  
 731 assurance program the monitoring of ~~the determination of~~ reports  
 732 that receive a an onsite child protective investigation to  
 733 determine the quality and timeliness of safety assessments,  
 734 engagements with families, teamwork with other experts and  
 735 professionals, and appropriate investigative activities that are  
 736 uniquely tailored to the safety factors associated with each  
 737 child and family and those that receive an enhanced onsite child  
 738 protective investigation.

739 ~~(12)-(13)~~ If the department or its agent is denied  
 740 reasonable access to a child by the parents, legal custodians,  
 741 or caregivers and the department deems that the best interests  
 742 of the child so require, it shall seek an appropriate court  
 743 order or other legal authority before ~~prior~~ to examining and  
 744 interviewing the child.

745 ~~(13)-(14)~~ Onsite visits and face-to-face interviews with the  
 746 child or family shall be unannounced unless it is determined by  
 747 the department or its agent or contract provider that such  
 748 unannounced visit would threaten the safety of the child.

749 ~~(14)-(15)~~ (a) If the department or its agent determines that  
 750 a child requires immediate or long-term protection through:  
 751 1. Medical or other health care; or  
 752 2. Homemaker care, day care, protective supervision, or  
 753 other services to stabilize the home environment, including  
 754 intensive family preservation services through the Intensive

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755 Crisis Counseling Program,

756

757 such services shall first be offered for voluntary acceptance  
 758 unless there are high-risk factors that may impact the ability  
 759 of the parents or legal custodians to exercise judgment. Such  
 760 factors may include the parents' or legal custodians' young age  
 761 or history of substance abuse or domestic violence.

762 (b) The parents or legal custodians shall be informed of  
 763 the right to refuse services, as well as the responsibility of  
 764 the department to protect the child regardless of the acceptance  
 765 or refusal of services. If the services are refused, a  
 766 collateral contact ~~required under subparagraph (11)(b)2.~~ shall  
 767 include a relative, if the protective investigator has knowledge  
 768 of and the ability to contact a relative. If the services are  
 769 refused and the department deems that the child's need for  
 770 protection so requires, the department shall take the child into  
 771 protective custody or petition the court as provided in this  
 772 chapter. At any time after the commencement of a protective  
 773 investigation, a relative may submit in writing to the  
 774 protective investigator or case manager a request to receive  
 775 notification of all proceedings and hearings in accordance with  
 776 s. 39.502. The request shall include the relative's name,  
 777 address, and phone number and the relative's relationship to the  
 778 child. The protective investigator or case manager shall forward  
 779 such request to the attorney for the department. The failure to  
 780 provide notice to either a relative who requests it pursuant to  
 781 this subsection or to a relative who is providing out-of-home  
 782 care for a child ~~may shall~~ not result in any previous action of  
 783 the court at any stage or proceeding in dependency or

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784 termination of parental rights under any part of this chapter  
 785 being set aside, reversed, modified, or in any way changed  
 786 absent a finding by the court that a change is required in the  
 787 child's best interests.

788 (c) The department, in consultation with the judiciary,  
 789 shall adopt by rule criteria that are factors requiring that the  
 790 department take the child into custody, petition the court as  
 791 provided in this chapter, or, if the child is not taken into  
 792 custody or a petition is not filed with the court, conduct an  
 793 administrative review. If after an administrative review the  
 794 department determines not to take the child into custody or  
 795 petition the court, the department shall document the reason for  
 796 its decision in writing and include it in the investigative  
 797 file. For all cases that were accepted by the local law  
 798 enforcement agency for criminal investigation pursuant to  
 799 subsection (2), the department must include in the file written  
 800 documentation that the administrative review included input from  
 801 law enforcement. In addition, for all cases that must be  
 802 referred to child protection teams pursuant to s. 39.303(2) and  
 803 (3), the file must include written documentation that the  
 804 administrative review included the results of the team's  
 805 evaluation. Factors that must be included in the development of  
 806 the rule include noncompliance with the case plan developed by  
 807 the department, or its agent, and the family under this chapter  
 808 and prior abuse reports with findings that involve the child or  
 809 caregiver.

810 ~~(15)(16)~~ When a child is taken into custody pursuant to  
 811 this section, the authorized agent of the department shall  
 812 request that the child's parent, caregiver, or legal custodian

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813 disclose the names, relationships, and addresses of all parents  
814 and prospective parents and all next of kin, so far as are  
815 known.

816 ~~(16)-(17)~~ The department shall complete its protective  
817 investigation within 60 days after receiving the initial report,  
818 unless:

819 (a) There is also an active, concurrent criminal  
820 investigation that is continuing beyond the 60-day period and  
821 the closure of the protective investigation may compromise  
822 successful criminal prosecution of the child abuse or neglect  
823 case, in which case the closure date shall coincide with the  
824 closure date of the criminal investigation and any resulting  
825 legal action.

826 (b) In child death cases, the final report of the medical  
827 examiner is necessary for the department to close its  
828 investigation and the report has not been received within the  
829 60-day period, in which case the report closure date shall be  
830 extended to accommodate the report.

831 (c) A child who is necessary to an investigation has been  
832 declared missing by the department, a law enforcement agency, or  
833 a court, in which case the 60-day period shall be extended until  
834 the child has been located or until sufficient information  
835 exists to close the investigation despite the unknown location  
836 of the child.

837 ~~(17)-(18)~~ Immediately upon learning during the course of an  
838 investigation that:

839 (a) The immediate safety or well-being of a child is  
840 endangered;

841 (b) The family is likely to flee;

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842 (c) A child died as a result of abuse, abandonment, or  
843 neglect;

844 (d) A child is a victim of aggravated child abuse as  
845 defined in s. 827.03; or

846 (e) A child is a victim of sexual battery or of sexual  
847 abuse,

848  
849 the department shall ~~orally~~ notify the jurisdictionally  
850 responsible state attorney, and county sheriff's office or local  
851 police department, and, within 3 working days, transmit a full  
852 written report to those agencies. The law enforcement agency  
853 shall review the report and determine whether a criminal  
854 investigation needs to be conducted and shall assume lead  
855 responsibility for all criminal fact-finding activities. A  
856 criminal investigation shall be coordinated, whenever possible,  
857 with the child protective investigation of the department. Any  
858 interested person who has information regarding an offense  
859 described in this subsection may forward a statement to the  
860 state attorney as to whether prosecution is warranted and  
861 appropriate.

862 ~~(18)-(19)~~ In a child protective investigation or a criminal  
863 investigation, when the initial interview with the child is  
864 conducted at school, the department or the law enforcement  
865 agency may allow, notwithstanding ~~the provisions of s.~~  
866 39.0132(4), a school staff member who is known by the child to  
867 be present during the initial interview if:

868 (a) The department or law enforcement agency believes that  
869 the school staff member could enhance the success of the  
870 interview by his or her presence; and

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871 (b) The child requests or consents to the presence of the  
872 school staff member at the interview.

873  
874 School staff may be present only when authorized by this  
875 subsection. Information received during the interview or from  
876 any other source regarding the alleged abuse or neglect of the  
877 child ~~is shall be~~ confidential and exempt from ~~the provisions of~~  
878 s. 119.07(1), except as otherwise provided by court order. A  
879 separate record of the investigation of the abuse, abandonment,  
880 or neglect ~~may shall~~ not be maintained by the school or school  
881 staff member. Violation of this subsection ~~is constitutes~~ a  
882 misdemeanor of the second degree, punishable as provided in s.  
883 775.082 or s. 775.083.

884 ~~(19)(20)~~ When a law enforcement agency conducts a criminal  
885 investigation into allegations of child abuse, neglect, or  
886 abandonment, photographs documenting the abuse or neglect shall  
887 ~~will~~ be taken when appropriate.

888 ~~(20)(21)~~ Within 15 days after the case is reported to him  
889 or her pursuant to this chapter, the state attorney shall report  
890 his or her findings to the department and shall include in such  
891 report a determination of whether or not prosecution is  
892 justified and appropriate in view of the circumstances of the  
893 specific case.

894 ~~(22) In order to enhance the skills of individual staff and~~  
895 ~~to improve the district's overall child protection system, the~~  
896 ~~department's training program at the district level must include~~  
897 ~~periodic reviews of cases handled within the district in order~~  
898 ~~to identify weaknesses as well as examples of effective~~  
899 ~~interventions that occurred at each point in the case.~~

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900 ~~(21)(23)~~ When an investigation is closed and a person is  
901 not identified as a caregiver responsible for the abuse,  
902 neglect, or abandonment alleged in the report, the fact that the  
903 person is named in some capacity in the report may not be used  
904 in any way to adversely affect the interests of that person.  
905 This prohibition applies to any use of the information in  
906 employment screening, licensing, child placement, adoption, or  
907 any other decisions by a private adoption agency or a state  
908 agency or its contracted providers, except that a previous  
909 report may be used to determine whether a child is safe and what  
910 the known risk is to the child at any stage of a child  
911 protection proceeding.

912 ~~(22)(24)~~ If, after having been notified of the requirement  
913 to report a change in residence or location of the child to the  
914 protective investigator, a parent or legal custodian causes the  
915 child to move, or allows the child to be moved, to a different  
916 residence or location, or if the child leaves the residence on  
917 his or her own accord and the parent or legal custodian does not  
918 notify the protective investigator of the move within 2 business  
919 days, the child may be considered to be a missing child for the  
920 purposes of filing a report with a law enforcement agency under  
921 s. 937.021.

922 Section 7. Subsection (1) of section 39.302, Florida  
923 Statutes, is amended to read:

924 39.302 Protective investigations of institutional child  
925 abuse, abandonment, or neglect.—

926 (1) The department shall conduct a child protective  
927 investigation of each report of institutional child abuse,  
928 abandonment, or neglect. Upon receipt of a report that alleges

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929 that an employee or agent of the department, or any other entity  
 930 or person covered by s. 39.01(33) or (47), acting in an official  
 931 capacity, has committed an act of child abuse, abandonment, or  
 932 neglect, the department shall initiate a child protective  
 933 investigation within the timeframe established under s.  
 934 39.201(5) and orally notify the appropriate state attorney, law  
 935 enforcement agency, and licensing agency, which shall  
 936 immediately conduct a joint investigation, unless independent  
 937 investigations are more feasible. When conducting investigations  
 938 onsite or having face-to-face interviews with the child,  
 939 investigation visits shall be unannounced unless it is  
 940 determined by the department or its agent that unannounced  
 941 visits threaten the safety of the child. If a facility is exempt  
 942 from licensing, the department shall inform the owner or  
 943 operator of the facility of the report. Each agency conducting a  
 944 joint investigation is entitled to full access to the  
 945 information gathered by the department in the course of the  
 946 investigation. A protective investigation must include an  
 947 interview with the child's parent or legal guardian ~~an onsite~~  
 948 ~~visit of the child's place of residence~~. The department shall  
 949 make a full written report to the state attorney within 3  
 950 working days after making the oral report. A criminal  
 951 investigation shall be coordinated, whenever possible, with the  
 952 child protective investigation of the department. Any interested  
 953 person who has information regarding the offenses described in  
 954 this subsection may forward a statement to the state attorney as  
 955 to whether prosecution is warranted and appropriate. Within 15  
 956 days after the completion of the investigation, the state  
 957 attorney shall report the findings to the department and shall

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958 include in the report a determination of whether or not  
 959 prosecution is justified and appropriate in view of the  
 960 circumstances of the specific case.

961 Section 8. Subsection (2) of section 39.307, Florida  
 962 Statutes, is amended to read:  
 963 39.307 Reports of child-on-child sexual abuse.—  
 964 (2) The department, contracted sheriff's office providing  
 965 protective investigation services, or contracted case management  
 966 personnel responsible for providing services ~~District staff~~, at  
 967 a minimum, shall adhere to the following procedures:  
 968 (a) The purpose of the response to a report alleging  
 969 juvenile sexual abuse behavior shall be explained to the  
 970 caregiver.

971 1. The purpose of the response shall be explained in a  
 972 manner consistent with legislative purpose and intent provided  
 973 in this chapter.

974 2. The name and office telephone number of the person  
 975 responding shall be provided to the caregiver of the alleged  
 976 juvenile sexual offender or child who has exhibited  
 977 inappropriate sexual behavior and the victim's caregiver.

978 3. The possible consequences of the department's response,  
 979 including outcomes and services, shall be explained to the  
 980 caregiver of the alleged juvenile sexual offender or child who  
 981 has exhibited inappropriate sexual behavior and the victim's  
 982 caregiver.

983 (b) The caregiver of the alleged juvenile sexual offender  
 984 or child who has exhibited inappropriate sexual behavior and the  
 985 victim's caregiver shall be involved to the fullest extent  
 986 possible in determining the nature of the sexual behavior

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987 ~~concerns allegation~~ and the nature of any problem or risk to  
988 other children.

989 (c) The assessment of risk and the perceived treatment  
990 needs of the alleged juvenile sexual offender or child who has  
991 exhibited inappropriate sexual behavior, the victim, and  
992 respective caregivers shall be conducted by the district staff,  
993 the child protection team of the Department of Health, and other  
994 providers under contract with the department to provide services  
995 to the caregiver of the alleged offender, the victim, and the  
996 victim's caregiver.

997 (d) The assessment shall be conducted in a manner that is  
998 sensitive to the social, economic, and cultural environment of  
999 the family.

1000 (e) If necessary, the child protection team of the  
1001 Department of Health shall conduct a physical examination of the  
1002 victim, which is sufficient to meet forensic requirements.

1003 (f) Based on the information obtained from the alleged  
1004 juvenile sexual offender or child who has exhibited  
1005 inappropriate sexual behavior, his or her caregiver, the victim,  
1006 and the victim's caregiver, an assessment of service and  
1007 treatment needs ~~report~~ must be completed ~~within 7 days~~ and, if  
1008 needed, a case plan developed within 30 days.

1009 (g) The department shall classify the outcome of the report  
1010 as follows:

1011 1. Report closed. Services were not offered because the  
1012 department determined that there was no basis for intervention.

1013 2. Services accepted by alleged juvenile sexual offender.  
1014 Services were offered to the alleged juvenile sexual offender or  
1015 child who has exhibited inappropriate sexual behavior and

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1016 accepted by the caregiver.

1017 3. Report closed. Services were offered to the alleged  
1018 juvenile sexual offender or child who has exhibited  
1019 inappropriate sexual behavior, but were rejected by the  
1020 caregiver.

1021 4. Notification to law enforcement. The risk to the  
1022 victim's safety and well-being cannot be reduced by the  
1023 provision of services or the caregiver rejected services, and  
1024 notification of the alleged delinquent act or violation of law  
1025 to the appropriate law enforcement agency was initiated.

1026 5. Services accepted by victim. Services were offered to  
1027 the victim and accepted by the caregiver.

1028 6. Report closed. Services were offered to the victim but  
1029 were rejected by the caregiver.

1030 Section 9. Section 39.504, Florida Statutes, is amended to  
1031 read:

1032 39.504 Injunction pending disposition of petition;  
1033 penalty.—

1034 (1) At any time after a protective investigation has been  
1035 initiated pursuant to part III of this chapter, the court, upon  
1036 the request of the department, a law enforcement officer, the  
1037 state attorney, or other responsible person, or upon its own  
1038 motion, may, if there is reasonable cause, issue an injunction  
1039 to prevent any act of child abuse. Reasonable cause for the  
1040 issuance of an injunction exists if there is evidence of child  
1041 abuse or if there is a reasonable likelihood of such abuse  
1042 occurring based upon a recent overt act or failure to act.

1043 (2) The petitioner seeking the injunction shall file a  
1044 verified petition, or a petition along with an affidavit,

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1045 setting forth the specific actions by the alleged offender from  
 1046 which the child must be protected and all remedies sought. Upon  
 1047 filing the petition, the court shall set a hearing to be held at  
 1048 the earliest possible time. Pending the hearing, the court may  
 1049 issue a temporary ex parte injunction, with verified pleadings  
 1050 or affidavits as evidence. The temporary ex parte injunction  
 1051 pending a hearing is effective for up to 15 days and the hearing  
 1052 must be held within that period unless continued for good cause  
 1053 shown, which may include obtaining service of process, in which  
 1054 case the temporary ex parte injunction shall be extended for the  
 1055 continuance period. The hearing may be held sooner if the  
 1056 alleged offender has received reasonable notice. Notice shall be  
 1057 provided to the parties as set forth in the Florida Rules of  
 1058 Juvenile Procedure, unless the child is reported to be in  
 1059 imminent danger, in which case the court may issue an injunction  
 1060 immediately. A judge may issue an emergency injunction pursuant  
 1061 to this section without notice if the court is closed for the  
 1062 transaction of judicial business. If an immediate injunction is  
 1063 issued, the court must hold a hearing on the next day of  
 1064 judicial business to dissolve the injunction or to continue or  
 1065 modify it in accordance with this section.

1066 (3) Before the hearing, the alleged offender must be  
 1067 personally served with a copy of the petition, all other  
 1068 pleadings related to the petition, a notice of hearing, and, if  
 1069 one has been entered, the temporary injunction. Following the  
 1070 hearing, the court may enter a final injunction. The court may  
 1071 grant a continuance of the hearing at any time for good cause  
 1072 shown by any party. If a temporary injunction has been entered,  
 1073 it shall be continued during the continuance.

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1074 ~~(4)(3)~~ If an injunction is issued under this section, the  
 1075 primary purpose of the injunction must be to protect and promote  
 1076 the best interests of the child, taking the preservation of the  
 1077 child's immediate family into consideration.

1078 (a) The injunction applies ~~shall apply~~ to the alleged or  
 1079 actual offender in a case of child abuse or acts of domestic  
 1080 violence. The conditions of the injunction shall be determined  
 1081 by the court, which ~~conditions~~ may include ordering the alleged  
 1082 or actual offender to:

- 1083 1. Refrain from further abuse or acts of domestic violence.
- 1084 2. Participate in a specialized treatment program.
- 1085 3. Limit contact or communication with the child victim,  
 1086 other children in the home, or any other child.
- 1087 4. Refrain from contacting the child at home, school, work,  
 1088 or wherever the child may be found.
- 1089 5. Have limited or supervised visitation with the child.
- 1090 ~~6. Pay temporary support for the child or other family~~  
 1091 ~~members; the costs of medical, psychiatric, and psychological~~  
 1092 ~~treatment for the child incurred as a result of the offenses;~~  
 1093 ~~and similar costs for other family members.~~

1094 ~~6.7~~ Vacate the home in which the child resides.

1095 (b) Upon proper pleading, the court may award the following  
 1096 relief in a temporary ex parte or final injunction ~~If the intent~~  
 1097 ~~of the injunction is to protect the child from domestic~~  
 1098 ~~violence, the conditions may also include:~~

- 1099 1. ~~Awarding the~~ Exclusive use and possession of the  
 1100 dwelling to the caregiver or exclusion of ~~excluding~~ the alleged  
 1101 or actual offender from the residence of the caregiver.
- 1102 2. ~~Awarding temporary custody of the child to the~~

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1103 ~~caregiver.~~1104 2.3. Establishing Temporary support for the child or other  
1105 family members.1106 3. The costs of medical, psychiatric, and psychological  
1107 treatment for the child incurred due to the abuse, and similar  
1108 costs for other family members.1109  
1110 This paragraph does not preclude ~~an the~~ adult victim of domestic  
1111 violence from seeking protection for himself or herself under s.  
1112 741.30.1113 (c) The terms of the final injunction shall remain in  
1114 effect until modified or dissolved by the court. The petitioner,  
1115 respondent, or caregiver may move at any time to modify or  
1116 dissolve the injunction. Notice of hearing on the motion to  
1117 modify or dissolve the injunction must be provided to all  
1118 parties, including the department. The injunction is valid and  
1119 enforceable in all counties in the state.1120 (5)(4) Service of process on the respondent shall be  
1121 carried out pursuant to s. 741.30. The department shall deliver  
1122 a copy of any injunction issued pursuant to this section to the  
1123 protected party or to a parent, caregiver, or individual acting  
1124 in the place of a parent who is not the respondent. Law  
1125 enforcement officers may exercise their arrest powers as  
1126 provided in s. 901.15(6) to enforce the terms of the injunction.1127 (6)(5) Any person who fails to comply with an injunction  
1128 issued pursuant to this section commits a misdemeanor of the  
1129 first degree, punishable as provided in s. 775.082 or s.  
1130 775.083.1131 (7) The person against whom an injunction is entered under

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1132 this section does not automatically become a party to a  
1133 subsequent dependency action concerning the same child.1134 Section 10. Paragraph (r) of subsection (2) of section  
1135 39.521, Florida Statutes, is amended to read:

1136 39.521 Disposition hearings; powers of disposition.-

1137 (2) The predisposition study must provide the court with  
1138 the following documented information:1139 (r) If the child has been removed from the home and will be  
1140 remaining with a relative, parent, or other adult approved by  
1141 the court, a home study report concerning the proposed placement  
1142 shall be included in the predisposition report. ~~Before~~ Prior to  
1143 recommending to the court any out-of-home placement for a child  
1144 other than placement in a licensed shelter or foster home, the  
1145 department shall conduct a study of the home of the proposed  
1146 legal custodians, which must include, at a minimum:1147 1. An interview with the proposed legal custodians to  
1148 assess their ongoing commitment and ability to care for the  
1149 child.1150 2. Records checks through the State Automated Child Welfare  
1151 Information System (SACWIS) ~~Florida Abuse Hotline Information~~  
1152 ~~System (FAHIS)~~, and local and statewide criminal and juvenile  
1153 records checks through the Department of Law Enforcement, on all  
1154 household members 12 years of age or older. In addition, the  
1155 fingerprints of any household members who are 18 years of age or  
1156 older may be submitted to the Department of Law Enforcement for  
1157 processing and forwarding to the Federal Bureau of Investigation  
1158 for state and national criminal history information. The  
1159 department has the discretion to request State Automated Child  
1160 Welfare Information System (SACWIS) and local, statewide, and

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1161 national criminal history checks and fingerprinting of any other  
 1162 visitor to the home who is made known to the department and any  
 1163 other persons made known to the department who are frequent  
 1164 visitors in the home. Out-of-state criminal records checks must  
 1165 be initiated for any individual ~~designated above~~ who has resided  
 1166 in a state other than Florida ~~if provided~~ that state's laws  
 1167 allow the release of these records. The out-of-state criminal  
 1168 records must be filed with the court within 5 days after receipt  
 1169 by the department or its agent.

1170 3. An assessment of the physical environment of the home.

1171 4. A determination of the financial security of the  
 1172 proposed legal custodians.

1173 5. A determination of suitable child care arrangements if  
 1174 the proposed legal custodians are employed outside of the home.

1175 6. Documentation of counseling and information provided to  
 1176 the proposed legal custodians regarding the dependency process  
 1177 and possible outcomes.

1178 7. Documentation that information regarding support  
 1179 services available in the community has been provided to the  
 1180 proposed legal custodians.

1181 The department ~~may shall~~ not place the child or continue the  
 1182 placement of the child in a home under shelter or  
 1183 postdisposition placement if the results of the home study are  
 1184 unfavorable, unless the court finds that this placement is in  
 1185 the child's best interest.

1186 Any other relevant and material evidence, including other  
 1187 written or oral reports, may be received by the court in its  
 1188

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1190 effort to determine the action to be taken with regard to the  
 1191 child and may be relied upon to the extent of its probative  
 1192 value, even though not competent in an adjudicatory hearing.  
 1193 Except as otherwise specifically provided, nothing in this  
 1194 section prohibits the publication of proceedings in a hearing.

1195 Section 11. Subsections (2) and (4) of section 39.6011,  
 1196 Florida Statutes, are amended to read:

1197 39.6011 Case plan development.—

1198 (2) The case plan must be written simply and clearly in  
 1199 English and, if English is not the principal language of the  
 1200 child's parent, to the extent possible in the parent's principal  
 1201 language. Each case plan must contain:

1202 (a) A description of the identified problem being  
 1203 addressed, including the parent's behavior or acts resulting in  
 1204 risk to the child and the reason for the intervention by the  
 1205 department.

1206 (b) The permanency goal.

1207 (c) If concurrent planning is being used, a description of  
 1208 the permanency goal of reunification with the parent or legal  
 1209 custodian in addition to a description of one of the remaining  
 1210 permanency goals described in s. 39.01.

1211 1. If a child has not been removed from a parent, but is  
 1212 found to be dependent, even if adjudication of dependency is  
 1213 withheld, the court may leave the child in the current placement  
 1214 with maintaining and strengthening the placement as a permanency  
 1215 option.

1216 2. If a child has been removed from a parent and is placed  
 1217 with a parent from whom the child was not removed, the court may  
 1218 leave the child in the placement with the parent from whom the

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1219 child was not removed with maintaining and strengthening the  
 1220 placement as a permanency option.

1221 3. If a child has been removed from a parent and is  
 1222 subsequently reunified with that parent, the court may leave the  
 1223 child with that parent with maintaining and strengthening the  
 1224 placement as a permanency option.

1225 (d) The date the compliance period expires. The case plan  
 1226 must be limited to as short a period as possible for  
 1227 accomplishing its provisions. The plan's compliance period  
 1228 expires no later than 12 months after the date the child was  
 1229 initially removed from the home, the child was adjudicated  
 1230 dependent, or the date the case plan was accepted by the court,  
 1231 whichever occurs first sooner.

1232 (e) A written notice to the parent that failure of the  
 1233 parent to substantially comply with the case plan may result in  
 1234 the termination of parental rights, and that a material breach  
 1235 of the case plan may result in the filing of a petition for  
 1236 termination of parental rights sooner than the compliance period  
 1237 set forth in the case plan.

1238 (4) The case plan must describe:

1239 (a) The role of the foster parents or legal custodians when  
 1240 developing the services that are to be provided to the child,  
 1241 foster parents, or legal custodians;

1242 (b) The responsibility of the case manager to forward a  
 1243 relative's request to receive notification of all proceedings  
 1244 and hearings submitted pursuant to s. 39.301(14)(b)  
 1245 ~~39.301(15)(b)~~ to the attorney for the department;

1246 (c) The minimum number of face-to-face meetings to be held  
 1247 each month between the parents and the department's family

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1248 services counselors to review the progress of the plan, to  
 1249 eliminate barriers to progress, and to resolve conflicts or  
 1250 disagreements; and

1251 (d) The parent's responsibility for financial support of  
 1252 the child, including, but not limited to, health insurance and  
 1253 child support. The case plan must list the costs associated with  
 1254 any services or treatment that the parent and child are expected  
 1255 to receive which are the financial responsibility of the parent.  
 1256 The determination of child support and other financial support  
 1257 shall be made independently of any determination of indigency  
 1258 under s. 39.013.

1259 Section 12. Subsection (1) of section 39.621, Florida  
 1260 Statutes, is amended to read:

1261 39.621 Permanency determination by the court.—

1262 (1) Time is of the essence for permanency of children in  
 1263 the dependency system. A permanency hearing must be held no  
 1264 later than 12 months after the date the child was removed from  
 1265 the home or within no later than 30 days after a court  
 1266 determines that reasonable efforts to return a child to either  
 1267 parent are not required, whichever occurs first. The purpose of  
 1268 the permanency hearing is to determine when the child will  
 1269 achieve the permanency goal or whether modifying the current  
 1270 goal is in the best interest of the child. A permanency hearing  
 1271 must be held at least every 12 months for any child who  
 1272 continues to be supervised by ~~receive supervision from~~ the  
 1273 department or awaits adoption.

1274 Section 13. Paragraph (b) of subsection (3), subsection  
 1275 (6), and paragraph (e) of subsection (10) of section 39.701,  
 1276 Florida Statutes, are amended to read:

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1277 39.701 Judicial review.—

1278 (3)

1279 (b) If the citizen review panel recommends extending the  
1280 goal of reunification for any case plan beyond 12 months from  
1281 the date the child was removed from the home, ~~or~~ the case plan  
1282 was adopted, or the child was adjudicated dependent, whichever  
1283 date came first, the court must schedule a judicial review  
1284 hearing to be conducted by the court within 30 days after  
1285 receiving the recommendation from the citizen review panel.

1286 (6) The attorney for the department shall notify a relative  
1287 who submits a request for notification of all proceedings and  
1288 hearings pursuant to s. 39.301(14)(b) ~~39.301(15)(b)~~. The notice  
1289 shall include the date, time, and location of the next judicial  
1290 review hearing.

1291 (10)

1292 (e) Within ~~no later than~~ 6 months after the date that the  
1293 child was placed in shelter care, the court shall conduct a  
1294 judicial review hearing to review the child's permanency goal as  
1295 identified in the case plan. At the hearing the court shall make  
1296 findings regarding the likelihood of the child's reunification  
1297 with the parent or legal custodian within 12 months after the  
1298 removal of the child from the home. ~~If, at this hearing,~~ the  
1299 court makes a written finding that it is not likely that the  
1300 child will be reunified with the parent or legal custodian  
1301 within 12 months after the child was removed from the home, the  
1302 department must file with the court, and serve on all parties, a  
1303 motion to amend the case plan under s. 39.6013 and declare that  
1304 it will use concurrent planning for the case plan. The  
1305 department must file the motion within ~~no later than~~ 10 business

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1306 days after receiving the written finding of the court. The  
1307 department must attach the proposed amended case plan to the  
1308 motion. If concurrent planning is already being used, the case  
1309 plan must document the efforts the department is taking to  
1310 complete the concurrent goal.

1311 Section 14. Subsection (1) of section 39.8055, Florida  
1312 Statutes, is amended to read:

1313 39.8055 Requirement to file a petition to terminate  
1314 parental rights; exceptions.—

1315 (1) The department shall file a petition to terminate  
1316 parental rights within 60 days after any of the following if:

1317 (a) ~~The~~ At the time of the 12-month judicial review  
1318 ~~hearing,~~ a child is not returned to the physical custody of the  
1319 parents 12 months after the child was sheltered or adjudicated  
1320 dependent, whichever occurs first;

1321 (b) A petition for termination of parental rights has not  
1322 otherwise been filed, and the child has been in out-of-home care  
1323 under the responsibility of the state for 12 of the most recent  
1324 22 months, calculated on a cumulative basis, but not including  
1325 any trial home visits or time during which the child was a  
1326 runaway;

1327 (c) A parent has been convicted of the murder,  
1328 manslaughter, aiding or abetting the murder, or conspiracy or  
1329 solicitation to murder the other parent or another child of the  
1330 parent, or a felony battery that resulted in serious bodily  
1331 injury to the child or to another child of the parent; or

1332 (d) A court determines that reasonable efforts to reunify  
1333 the child and parent are not required.

1334 Section 15. Paragraphs (d), (e), and (k) of subsection (1)

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1335 and subsection (2) of section 39.806, Florida Statutes, are  
1336 amended to read:

1337 39.806 Grounds for termination of parental rights.—

1338 (1) Grounds for the termination of parental rights may be  
1339 established under any of the following circumstances:

1340 (d) When the parent of a child is incarcerated ~~in a state~~  
1341 ~~or federal correctional institution and either:~~

1342 1. The period of time for which the parent is expected to  
1343 be incarcerated will constitute a significant substantial  
1344 portion of the child's minority. When determining whether the  
1345 period of time is significant, the court shall consider the  
1346 child's age and the child's need for a permanent and stable  
1347 home. The period of time begins on the date that the parent  
1348 enters into incarceration period of time before the child will  
1349 attain the age of 18 years;

1350 2. The incarcerated parent has been determined by the court  
1351 to be a violent career criminal as defined in s. 775.084, a  
1352 habitual violent felony offender as defined in s. 775.084, or a  
1353 sexual predator as defined in s. 775.21; has been convicted of  
1354 first degree or second degree murder in violation of s. 782.04  
1355 or a sexual battery that constitutes a capital, life, or first  
1356 degree felony violation of s. 794.011; or has been convicted of  
1357 an offense in another jurisdiction which is substantially  
1358 similar to one of the offenses listed in this paragraph. As used  
1359 in this section, the term "substantially similar offense" means  
1360 any offense that is substantially similar in elements and  
1361 penalties to one of those listed in this subparagraph, and that  
1362 is in violation of a law of any other jurisdiction, whether that  
1363 of another state, the District of Columbia, the United States or

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1364 any possession or territory thereof, or any foreign  
1365 jurisdiction; or

1366 3. The court determines by clear and convincing evidence  
1367 that continuing the parental relationship with the incarcerated  
1368 parent would be harmful to the child and, for this reason, that  
1369 termination of the parental rights of the incarcerated parent is  
1370 in the best interest of the child. When determining harm, the  
1371 court shall consider the following factors:

1372 a. The age of the child;

1373 b. The relationship between the child and the parent;

1374 c. The nature of the parent's current and past provision  
1375 for the child's developmental, cognitive, psychological, and  
1376 physical needs;

1377 d. The parent's history of criminal behavior, which may  
1378 include the frequency of incarceration and the unavailability of  
1379 the parent to the child due to incarceration; and

1380 e. Any other factor the court deems relevant.

1381 (e) When a child has been adjudicated dependent, a case  
1382 plan has been filed with the court, and:

1383 1. The child continues to be abused, neglected, or  
1384 abandoned by the parent or parents. The failure of the parent or  
1385 parents to substantially comply with the case plan for a period  
1386 of 12 ~~9~~ months after an adjudication of the child as a dependent  
1387 child or the child's placement into shelter care, whichever  
1388 occurs first, constitutes evidence of continuing abuse, neglect,  
1389 or abandonment unless the failure to substantially comply with  
1390 the case plan was due to the parent's lack of financial  
1391 resources or to the failure of the department to make reasonable  
1392 efforts to reunify the parent and child. The 12-month ~~9-month~~

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1393 period begins to run only after the child's placement into  
 1394 shelter care or the entry of a disposition order placing the  
 1395 custody of the child with the department or a person other than  
 1396 the parent and the court's approval of a case plan having the  
 1397 goal of reunification with the parent, whichever occurs first;  
 1398 or

1399 2. The parent or parents have materially breached the case  
 1400 plan. Time is of the essence for permanency of children in the  
 1401 dependency system. In order to prove the parent or parents have  
 1402 materially breached the case plan, the court must find by clear  
 1403 and convincing evidence that the parent or parents are unlikely  
 1404 or unable to substantially comply with the case plan before time  
 1405 to comply with the case plan expires.

1406 (k) A test administered at birth that indicated that the  
 1407 child's blood, urine, or meconium contained any amount of  
 1408 alcohol or a controlled substance or metabolites of such  
 1409 substances, the presence of which was not the result of medical  
 1410 treatment administered to the mother or the newborn infant, and  
 1411 the biological mother of the child is the biological mother of  
 1412 at least one other child who was adjudicated dependent after a  
 1413 finding of harm to the child's health or welfare due to exposure  
 1414 to a controlled substance or alcohol as defined in s.  
 1415 39.01(32)(g), after which the biological mother had the  
 1416 opportunity to participate in substance abuse treatment.

1417 (2) Reasonable efforts to preserve and reunify families are  
 1418 not required if a court of competent jurisdiction has determined  
 1419 that any of the events described in paragraphs (1)(b)-(d) or  
 1420 (f)-(l) (i)-(l) have occurred.

1421 Section 16. The amendments made by this act to paragraph

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1422 (d) of subsection (1) of section 39.806, Florida Statutes, do  
 1423 not apply to any cause of action that accrued before July 1,  
 1424 2012.

1425 Section 17. Subsections (1) and (19) of section 39.502,  
 1426 Florida Statutes, are amended to read:

1427 39.502 Notice, process, and service.—

1428 (1) Unless parental rights have been terminated, all  
 1429 parents must be notified of all proceedings or hearings  
 1430 involving the child. Notice in cases involving shelter hearings  
 1431 and hearings resulting from medical emergencies must be that  
 1432 most likely to result in actual notice to the parents. In all  
 1433 other dependency proceedings, notice must be provided in  
 1434 accordance with subsections (4)-(9), except when a relative  
 1435 requests notification pursuant to s. 39.301(14)(b)  
 1436 ~~39.301(15)(b)~~, in which case notice shall be provided pursuant  
 1437 to subsection (19).

1438 (19) In all proceedings and hearings under this chapter,  
 1439 the attorney for the department shall notify, orally or in  
 1440 writing, a relative requesting notification pursuant to s.  
 1441 39.301(14)(b) ~~39.301(15)(b)~~ of the date, time, and location of  
 1442 such proceedings and hearings, and notify the relative that he  
 1443 or she has the right to attend all subsequent proceedings and  
 1444 hearings, to submit reports to the court, and to speak to the  
 1445 court regarding the child, if the relative so desires. The court  
 1446 has the discretion to release the attorney for the department  
 1447 from notifying a relative who requested notification pursuant to  
 1448 s. 39.301(14)(b) ~~39.301(15)(b)~~ if the relative's involvement is  
 1449 determined to be impeding the dependency process or detrimental  
 1450 to the child's well-being.

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1451 Section 18. Section 39.823, Florida Statutes, is amended to  
1452 read:

1453 39.823 Guardian advocates for drug dependent newborns.—The  
1454 Legislature finds that increasing numbers of drug dependent  
1455 children are born in this state. Because of the parents'  
1456 continued dependence upon drugs, the parents may temporarily  
1457 leave their child with a relative or other adult or may have  
1458 agreed to voluntary family services under s. 39.301(14)  
1459 ~~39.301(15)~~. The relative or other adult may be left with a child  
1460 who is likely to require medical treatment but for whom they are  
1461 unable to obtain medical treatment. The purpose of this section  
1462 is to provide an expeditious method for such relatives or other  
1463 responsible adults to obtain a court order which allows them to  
1464 provide consent for medical treatment and otherwise advocate for  
1465 the needs of the child and to provide court review of such  
1466 authorization.

1467 Section 19. Subsection (1) of section 39.828, Florida  
1468 Statutes, is amended to read:

1469 39.828 Grounds for appointment of a guardian advocate.—

1470 (1) The court shall appoint the person named in the  
1471 petition as a guardian advocate with all the powers and duties  
1472 specified in s. 39.829 for an initial term of 1 year upon a  
1473 finding that:

1474 (a) The child named in the petition is or was a drug  
1475 dependent newborn as described in s. 39.01~~(32)~~~~(g)~~;

1476 (b) The parent or parents of the child have voluntarily  
1477 relinquished temporary custody of the child to a relative or  
1478 other responsible adult;

1479 (c) The person named in the petition to be appointed the

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1480 guardian advocate is capable of carrying out the duties as  
1481 provided in s. 39.829; and

1482 (d) A petition to adjudicate the child dependent under this  
1483 chapter has not been filed.

1484 Section 20. Subsection (3) of section 402.56, Florida  
1485 Statutes, is amended to read:

1486 402.56 Children's cabinet; organization; responsibilities;  
1487 annual report.—

1488 (3) ORGANIZATION.—There is created the Children and Youth  
1489 Cabinet, which is a coordinating council as defined in s. 20.03.

1490 (a) The cabinet shall ensure that the public policy of this  
1491 state relating to children and youth is developed to promote  
1492 interdepartmental collaboration and program implementation in  
1493 order that services designed for children and youth are planned,  
1494 managed, and delivered in a holistic and integrated manner to  
1495 improve the children's self-sufficiency, safety, economic  
1496 stability, health, and quality of life.

1497 (b) The cabinet is created in the Executive Office of the  
1498 Governor, which shall provide administrative support and service  
1499 to the cabinet.

1500 (c) ~~The cabinet shall meet for its organizational session~~  
1501 ~~no later than October 1, 2007. Thereafter, The cabinet shall~~  
1502 ~~meet at least four six times each year in different regions of~~  
1503 ~~the state in order to solicit input from the public and any~~  
1504 ~~other individual offering testimony relevant to the issues~~  
1505 ~~considered. Each meeting must include a public comment session.~~

1506 Section 21. This act shall take effect July 1, 2012.

**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.)

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Prepared By: The Professional Staff of the Children, Families, and Elder Affairs Committee

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BILL: SPB 7168

INTRODUCER: Children, Families, and Elder Affairs Committee

SUBJECT: Domestic Violence

DATE: January 18, 2012

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Preston	Farmer	CF	<b>Pre-meeting</b>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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**I. Summary:**

The bill makes statutory changes to conform to proviso included in the FY 2011-2012 General Appropriations Act (GAA)<sup>1</sup>.

The bill revises the duties and functions of the Department of Children and Family Services (DCF or department) relating to the domestic violence program including the following:

- Limits the department's role in certification of domestic violence shelters to initial certification, suspension and revocation. Ongoing certification of domestic violence shelters will be performed by the Florida Coalition Against Domestic Violence (FCADV or coalition);
- Requires the department to partner with the FCADV to coordinate and administer the statewide activities related to the prevention of domestic violence;
- Requires the department to contract with the coalition for the delivery and management of services for the state's domestic violence program; and
- Eliminates certification of batterers' intervention programs as well as the authority for the department to collect fees associated with the certification program.

This bill substantially amends ss. 39.903, 39.904, 39.905, 381.006, 381.0072, 741.281, 741.2902, 741.30, 741.316, 741.32, 741.325, 948.038, and 938.01 and repeals s.741.327 of the Florida Statutes:

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<sup>1</sup> SB 2000 (2011).

## II. Present Situation:

The initiative to transfer multiple functions related to domestic violence from the department to the FCADV was first introduced in the Governor's budget recommendations for FY 2011-12. The bill to carry out the transfer failed adoption during the 2011 legislative session.<sup>2</sup> Proviso was added to the GAA giving the coalition funding and authority to implement statutory directives contained in Chapter 39, F.S., relating to the domestic violence program. The department negotiated a contract with the coalition to perform these tasks effective July 1, 2011.

### Domestic violence program

The department has historically been responsible for the statewide domestic violence program, which provides supervision, direction, coordination, and administration of activities related to domestic violence prevention and intervention services.<sup>3</sup> Specifically, the department was required to:

- Develop criteria for the approval or rejection of certification or funding of domestic violence centers;
- Develop minimum standards for domestic violence centers to ensure the health and safety of the clients in the centers;
- Receive and approve or reject applications for certification of domestic violence centers;
- Evaluate each certified domestic violence center annually to ensure compliance with the minimum standards. The department has the right to enter and inspect the premises of certified domestic violence centers at any reasonable hour in order to effectively evaluate the state of compliance of these centers;
- Promote the involvement of certified domestic violence centers in the coordination, development, and planning of domestic violence programming in the districts and the state;
- Serve as a clearinghouse for information relating to domestic violence;
- Enlist the assistance of public and voluntary health, education, welfare, and rehabilitation agencies in a concerted effort to prevent domestic violence and to treat persons engaged in or subject to domestic violence; and
- Develop and provide educational programs on domestic violence for the benefit of the general public, persons engaged in or subject to domestic violence, professional persons, or others who care for or may be engaged in the care and treatment of persons engaged in or subject to domestic violence.<sup>4</sup>

### Florida Coalition Against Domestic Violence

The department was also required to contract with a statewide association whose primary purpose is to represent and provide technical assistance to certified domestic violence centers.

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<sup>2</sup> HB 5309 was heard only in the House Health Care Appropriations Subcommittee and the House Appropriations Committee; a bill addressing these issues was not filed in the Senate.

<sup>3</sup> s.39.903, F.S.

<sup>4</sup> *Id.*

This association implements, administers, and evaluates all services provided by the certified domestic violence centers.<sup>5</sup>

The coalition serves as the professional association for the state's 42 certified domestic violence centers and is the primary representative of battered women and their children in the public policy arena.<sup>6</sup> Funding sources for the coalition have included the federal Family Violence Prevention Services Act, the federal Violence Against Women Act, membership fees, private donations, and funds from the state. The coalition administers state and federal funding earmarked to the 42 domestic violence centers in the state.

Effective January 1, 2004, the coalition became responsible for approving or rejecting applications for funding and contracting with certified centers. In order to receive state funds, a center must obtain certification by the State of Florida; however, the issuance of certification does not obligate the coalition to provide state funding. The coalition monitors the centers fiscally and programmatically under their new authority to administer funds. This review process also includes compliance with rule and law.

### **Domestic violence centers**

Domestic Violence centers are community-based agencies that provide services to the victims of domestic violence. Minimum services include temporary emergency shelter; information and referrals; safety planning, counseling and case management; a 24-hour emergency hotline; educational services for community awareness; assessment and appropriate referral of resident children; and training for law enforcement and other professionals.<sup>7</sup>

Domestic violence centers have been required to be certified since 1978.<sup>8</sup> The department is responsible for monitoring certification on an annual basis to ensure that the certified centers continue to remain in compliance with the standards for certification.<sup>9</sup> A domestic violence center must be certified in order to receive funding.<sup>10</sup>

### **Batterers' intervention programs**

The department has been responsible for certifying batterers' intervention programs since 2001.<sup>11</sup> The Office for Certification and Monitoring of Batterers' Intervention Programs was created in the Department of Corrections in 1995 and transferred to the department in 2001.<sup>12</sup> for the

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<sup>5</sup> *Id.*

<sup>6</sup> In 1977, 14 shelters in Florida formed a network of battered women's advocates known as the Refuge Information Network. Several years later, this initial organization was incorporated as the Florida Coalition Against Domestic Violence. The Coalition, like the Network, was founded on principles of cooperation and unity among shelters. Members share the goal of ending domestic violence through community education, public policy development and services for victims. Retrieved January 9, 2012 from <http://www.fcadv.org/>

<sup>7</sup> s.39.905, F.S.

<sup>8</sup> Ch.78-281, L.O.F.

<sup>9</sup> s.39.903(1)(d), F.S.

<sup>10</sup> s.39.905(6)(a), F.S.

<sup>11</sup> s.741.325, F.S.

<sup>12</sup> Ch. 95-195, L.O.F. created the office in the Department of Corrections. Ch. 2001-183, L.O.F., transferred the office to the department by a type two transfer as defined in s. 20.06(2), F.S.

purpose of uniformly and systematically standardizing programs to hold those who perpetrate acts of domestic violence responsible for those acts and to ensure safety for victims of domestic violence.<sup>13</sup>

Section 741.325, requires the department to promulgate guidelines setting forth certain requirements of the programs. Those guidelines require that:

- The primary purpose of the programs shall be victim safety and the safety of the children, if present;
- The batterer shall be held accountable for acts of domestic violence;
- The programs shall be at least 29 weeks in length and shall include 24 weekly sessions, plus appropriate intake, assessment, and orientation programming;
- The programs be a psychoeducational model that employs a program content based on tactics of power and control by one person over another; and
- The programs and those who are facilitators, supervisors, and trainees be certified and that standards for rejection and suspension for failure to meet certification standards are established.

Several sections of statute authorize or require judges to order an offender to participate in a batterers' intervention program. For example, section 948.038, F.S. provides that as a condition of probation, community control, or any other court-ordered community supervision, a judge must, with certain exceptions, order a person convicted of an offense of domestic violence to attend and successfully complete a batterers' intervention program. This section requires that the batterers' intervention program must be a program certified under s. 741.32, F.S., and the offender must pay the cost of attending the program.

### **Fees**

The department was authorized to assess and collect fees for the certification of batterers' intervention programs as follows:<sup>14</sup>

- An annual certification fee not to exceed \$300 for the certification and monitoring of batterers' intervention programs; and
- An annual certification fee not to exceed \$200 for the certification and monitoring of assessment personnel providing direct services to persons who:
  - o Are ordered by the court to participate in a domestic violence prevention program;
  - o Are adjudged to have committed an act of domestic violence as defined in s. 741.28;
  - o Have an injunction entered for protection against domestic violence; or
  - o Agree to attend a program as part of a diversion or pretrial intervention agreement by the offender with the state attorney.<sup>15</sup>

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<sup>13</sup> s.741.325, F.S.

<sup>14</sup> s.741.327, F.S.

<sup>15</sup> *Id.*

In addition, all persons required by the court to attend domestic violence programs certified by the department are required to pay an additional \$30 fee for each program to the department.<sup>16</sup> The fees assessed and collected under this section are deposited in the Executive Office of the Governor's Domestic Violence Trust Fund<sup>17</sup> and directed to the department to fund the cost of certifying and monitoring batterers' intervention programs.<sup>18</sup>

### III. Effect of Proposed Changes:

The bill maintains the department's operation of the domestic violence program, but requires the department to contract with the coalition to perform specific duties currently performed by the department.

#### **Responsibilities of the department** now include:

- Developing criteria for the approval, suspension, or rejection of certification of domestic violence centers;
- Developing minimum standards for domestic violence centers;
- Receiving and approving or rejecting applications for **initial** certification of domestic violence centers;<sup>19</sup>
- Having the authorization to enter and inspect at any reasonable hour the premises of domestic violence centers applying for initial certification after July 1, 2011;
- Coordinating with state agencies that have health, education, or criminal justice responsibilities to raise awareness of domestic violence and promote consistent policy implementation;
- Entering into partnerships with the coalition to coordinate and administer statewide activities related to the prevention of domestic violence; and
- Considering and awarding applications from certified domestic violence centers for capital improvement grants pursuant to s. 39.9055, F.S.

#### **Responsibilities of the coalition** now include:

- Having the authorization to enter and inspect the premises of certified domestic violence centers for monitoring purposes;
- Delivering and managing services for the state's domestic violence program;<sup>20</sup>
- Implementing, administering, and evaluating all services provided by the certified domestic violence centers;
- Receiving and approving or rejecting applications for funding of certified domestic violence centers; and

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<sup>16</sup> *Id.* The intent that the programs be user-fee funded with fees from the batterers who attend the program as payment for programs is important to the batterer taking responsibility for the act of violence. Exception shall be made for those local, state, or federal programs that fund batterers' intervention programs in whole or in part.

<sup>17</sup> s.741.01, F.S.

<sup>18</sup> The department has indicated that the current fee collections do not support the cost associated with the certifying and monitoring batterers' intervention programs.

<sup>19</sup> Certification will be renewed annually by the department upon a favorable monitoring report by the coalition.

<sup>20</sup> Services include, but are not limited to, the administration of contracts and grants as directed by the department.

- Evaluating certified domestic violence centers in order to determine compliance with minimum certification standards.

When approving funding for a newly certified domestic violence center, the coalition is required to make every effort to minimize any adverse economic impact on existing certified domestic violence centers or services provided within the same service area. In order to minimize duplication of services, the coalition must make every effort to encourage subcontracting relationships with existing certified domestic violence centers within the same service area. In distributing funds allocated for certified domestic violence centers, the coalition is required to use a formula approved by the department as specified in s. 39.905(7)(a).

**Additional provisions** of the bill include:

- Requiring the annual report on the status of domestic violence in the state that is required to be submitted to the legislature be submitted by the coalition rather than the department;<sup>21</sup>
- Requiring a new center applying for certification in an area where a center already exists to demonstrate the unmet need by the existing center and describe efforts to reduce duplication of services;
- Requiring information relating to domestic violence advocates who are employed or who volunteer at a domestic violence center and may claim a privilege to refuse to disclose confidential communications to be reported to the coalition rather than the department;
- Specifying that the coalition rather than the department will conduct annual food service inspection functions for domestic violence shelters and that the coalition will not apply the term “food service establishment” if the center does not prepare and serve food; and
- Eliminating the requirement that a batterers’ intervention program must be a certified program under s.741.32, F.S.<sup>22</sup> The bill contains additional provisions related to batterers’ intervention programs including:
  - Amending legislative intent relating to certifying batterers’ intervention programs;
  - Eliminating the role of the department related to the certification of these programs;
  - Eliminating statutory references to certified batterers’ intervention programs;
  - Requiring that batterers’ intervention programs meet the requirements currently in law but removes the authority for the department to promulgate rules to establish these requirements; and

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<sup>21</sup> s.39.905, F.S.

<sup>22</sup> Due to previous budget cuts, the department suspended the acceptance and approval of new applicants for certification as a batterer intervention program or as an assessor. Certifications for all currently certified programs and assessors in good standing were extended for one year. Retrieved January 6, 2012, from <http://www.def.state.fl.us/programs/domesticviolence/bip/bip.shtml>.

- Retaining references to batterers' intervention programs in statute but eliminating references to the programs being certified by the department.

#### **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:**

None.

#### **V. Fiscal Impact Statement:**

##### **A. Tax/Fee Issues:**

The bill repeals the requirement for providers of batterers' intervention programs to submit an initial application fee and annual certification fee to the department. Currently, the application fee is \$300 and the annual renewal fee is \$150 for batterers' intervention programs, and there is a \$100 application fee and a \$74 annual renewal fee for assessors. The bill also repeals the requirement for persons court-ordered to attend batterers intervention to pay an additional \$30 fee to the department.

##### **B. Private Sector Impact:**

See Tax/Fee Issues above.

##### **C. Government Sector Impact:**

The department reports that the GAA for FY2011-12 transferred \$951,851 of budget from the department to the coalition to perform certain duties rather than the department. The bill repeals the department's authority to collect fees; however, there is no fiscal impact because the department's budget for the batterer intervention program was not approved in the FY 2011-12 GAA.

#### **VI. Technical Deficiencies:**

Lines 45-136 of the bill may need to be redrafted in order to provide greater clarity relating to the roles and responsibilities of the department and the coalition.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

**A. Committee Substitute – Statement of Substantial Changes:**

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

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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FOR CONSIDERATION By the Committee on Children, Families, and Elder Affairs

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1 A bill to be entitled  
 2 An act relating to domestic violence; amending s.  
 3 39.903, F.S.; revising provisions relating to  
 4 certification of domestic violence centers; providing  
 5 specified additional duties for and authority of the  
 6 Florida Coalition Against Domestic Violence; revising  
 7 the duties of the Department of Children and Family  
 8 Services; requiring the department to contract with  
 9 the Florida Coalition Against Domestic Violence for  
 10 specified purposes; amending s. 39.904, F.S.;  
 11 requiring the Florida Coalition Against Domestic  
 12 Violence, rather than the department, to make a  
 13 specified annual report; revising the contents of the  
 14 report; amending s. 39.905, F.S.; requiring the  
 15 Florida Coalition Against Domestic Violence, rather  
 16 than the department, to perform certain duties  
 17 relating to certification of domestic violence  
 18 centers; revising provisions relating to certification  
 19 of domestic violence centers; requiring a  
 20 demonstration of need for certification of a new  
 21 domestic violence center; providing the grant, denial,  
 22 suspension, or revocation of certification of a  
 23 domestic violence center is not agency action for  
 24 purposes of appeal under ch. 120, F.S.; revising  
 25 provisions relating to expiration of a center's annual  
 26 certificate; amending ss. 381.006, 381.0072, 741.281,  
 27 741.2902, 741.30, and 741.316, F.S.; conforming  
 28 provisions to changes made by the act; amending s.  
 29 741.32, F.S.; deleting provisions relating to the

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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30 certification of batterers' intervention programs;  
 31 amending s. 741.325, F.S.; revising the requirements  
 32 for batterers' intervention programs; repealing s.  
 33 741.327, F.S., relating to the certification and  
 34 monitoring of batterers' intervention programs;  
 35 amending ss. 948.038 and 938.01, F.S.; conforming  
 36 provisions to changes made by the act; providing an  
 37 effective date.  
 38  
 39 Be It Enacted by the Legislature of the State of Florida:  
 40  
 41 Section 1. Section 39.903, Florida Statutes, is amended to  
 42 read:  
 43 39.903 Duties and functions of the department with respect  
 44 to domestic violence.—  
 45 (1) The department shall:  
 46 (a) Develop by rule criteria for the approval, suspension,  
 47 or rejection of certification ~~or funding~~ of domestic violence  
 48 centers.  
 49 (b) Develop by rule minimum standards for domestic violence  
 50 centers to ensure the health and safety of the clients in the  
 51 centers.  
 52 (c) Receive and approve or reject applications for initial  
 53 certification of domestic violence centers. The certification  
 54 shall be renewed annually thereafter by the department upon  
 55 receipt of a favorable monitoring report by the Florida  
 56 Coalition Against Domestic Violence. If any of the required  
 57 services are exempted from certification by the department under  
 58 s. 39.905(1)(c), the center ~~may shall~~ not receive funding from

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59 the coalition for those services.

60 (d) ~~Have~~ Evaluate each certified domestic violence center  
61 annually to ensure compliance with the minimum standards. The  
62 department has the right to enter and inspect the premises of  
63 domestic violence centers applying for an initial certification  
64 or facing potential suspension or revocation of certification  
65 certified domestic violence centers at any reasonable hour in  
66 order to effectively evaluate the state of compliance with  
67 minimum standards of these centers with this part and rules  
68 relating to this part. The coalition has the right to enter and  
69 inspect the premises of certified domestic violence centers for  
70 monitoring purposes.

71 (e) Adopt rules to implement this part.

72 (f) Promote the involvement of certified domestic violence  
73 centers in the coordination, development, and planning of  
74 domestic violence programming in the circuits districts and the  
75 state.

76 ~~(2) The department shall serve as a clearinghouse for~~  
77 ~~information relating to domestic violence.~~

78 (2)(3) The department shall operate the domestic violence  
79 program and enter into partnerships with the coalition for the,  
80 which provides supervision, direction, coordination, and  
81 administration of statewide activities related to the prevention  
82 of domestic violence.

83 (3)(4) The department shall coordinate with state agencies  
84 that have health, education, or criminal justice  
85 responsibilities to raise awareness of domestic violence and  
86 promote consistent policy implementation enlist the assistance  
87 of public and voluntary health, education, welfare, and

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88 ~~rehabilitation agencies in a concerted effort to prevent~~  
89 ~~domestic violence and to treat persons engaged in or subject to~~  
90 ~~domestic violence. With the assistance of these agencies, the~~  
91 ~~department, within existing resources, shall formulate and~~  
92 ~~conduct a research and evaluation program on domestic violence.~~  
93 ~~Efforts on the part of these agencies to obtain relevant grants~~  
94 ~~to fund this research and evaluation program must be supported~~  
95 ~~by the department.~~

96 ~~(5) The department shall develop and provide educational~~  
97 ~~programs on domestic violence for the benefit of the general~~  
98 ~~public, persons engaged in or subject to domestic violence,~~  
99 ~~professional persons, or others who care for or may be engaged~~  
100 ~~in the care and treatment of persons engaged in or subject to~~  
101 ~~domestic violence.~~

102 (4)(6) The department shall cooperate with, assist in, and  
103 participate in, programs of other properly qualified state  
104 agencies, federal agencies, private organizations including any  
105 agency of the Federal Government, schools of medicine,  
106 hospitals, and clinics, in planning and conducting research on  
107 the prevention of domestic violence and the provision of  
108 services to clients, care, treatment, and rehabilitation of  
109 persons engaged in or subject to domestic violence.

110 (5)(7) The department shall contract with the statewide  
111 coalition that represents and provides a statewide association  
112 whose primary purpose is to represent and provide technical  
113 assistance to certified domestic violence centers for the  
114 delivery and management of services for the state's domestic  
115 violence program. Services under this contract include, but are  
116 not limited to, the administration of contracts and grants as

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117 directed by the department. As part of its management of the  
 118 delivery of services for the state's domestic violence program,  
 119 the coalition ~~This association~~ shall implement, administer, and  
 120 evaluate all services provided by the certified domestic  
 121 violence centers; ~~The association shall~~ receive and approve or  
 122 reject applications for funding of certified domestic violence  
 123 centers; and evaluate certified domestic violence centers in  
 124 order to determine compliance with minimum certification  
 125 standards. When approving funding for a newly certified domestic  
 126 violence center, the coalition ~~association~~ shall make every  
 127 effort to minimize any adverse economic impact on existing  
 128 certified domestic violence centers or services provided within  
 129 the same service area. In order to minimize duplication of  
 130 services, the coalition ~~association~~ shall make every effort to  
 131 encourage subcontracting relationships with existing certified  
 132 domestic violence centers within the same service area. In  
 133 distributing funds allocated by the Legislature for certified  
 134 domestic violence centers, the coalition ~~association~~ shall use a  
 135 formula approved by the department as specified in s.  
 136 39.905(7)(a).

137 (6) The department shall consider and award applications  
 138 from certified domestic violence centers for capital improvement  
 139 grants pursuant to s. 39.9055.

140 Section 2. Section 39.904, Florida Statutes, is amended to  
 141 read:

142 39.904 Report to the Legislature on the status of domestic  
 143 violence cases.—On or before January 1 of each year, the Florida  
 144 Coalition Against Domestic Violence ~~department~~ shall furnish to  
 145 the President of the Senate and the Speaker of the House of

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146 Representatives a report on the status of domestic violence in  
 147 this state, which must ~~report shall~~ include, but need ~~is~~ not be  
 148 limited to, the following:  
 149 (1) The incidence of domestic violence in this state.  
 150 (2) An identification of the areas of the state where  
 151 domestic violence is of significant proportions, indicating the  
 152 number of cases of domestic violence officially reported, as  
 153 well as an assessment of the degree of unreported cases of  
 154 domestic violence.  
 155 (3) An identification and description of the types of  
 156 programs in the state which ~~that~~ assist victims of domestic  
 157 violence or persons who commit domestic violence, including  
 158 information on funding for the programs.  
 159 (4) The number of persons who receive services from ~~are~~  
 160 ~~treated by or assisted by~~ local certified domestic violence  
 161 programs that receive funding through the coalition ~~department~~.  
 162 (5) The incidence of domestic violence homicides in the  
 163 state, including information and data collected from state and  
 164 local domestic violence fatality review teams. A statement on  
 165 the effectiveness of such programs in preventing future domestic  
 166 violence.  
 167 ~~(6) An inventory and evaluation of existing prevention~~  
 168 ~~programs.~~  
 169 ~~(7) A listing of potential prevention efforts identified by~~  
 170 ~~the department; the estimated annual cost of providing such~~  
 171 ~~prevention services, both for a single client and for the~~  
 172 ~~anticipated target population as a whole; an identification of~~  
 173 ~~potential sources of funding; and the projected benefits of~~  
 174 ~~providing such services.~~

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175 Section 3. Paragraphs (c), (g), and (i) of subsection (1),  
 176 subsections (2), (3), and (5), paragraph (a) of subsection (6),  
 177 and paragraph (b) of subsection (7) of section 39.905, Florida  
 178 Statutes, are amended to read:

179 39.905 Domestic violence centers.—

180 (1) Domestic violence centers certified under this part  
 181 must:

182 (c) Provide minimum services ~~that which~~ include, but are  
 183 not limited to, information and referral services, counseling  
 184 and case management services, temporary emergency shelter for  
 185 more than 24 hours, a 24-hour hotline, training for law  
 186 enforcement personnel, assessment and appropriate referral of  
 187 resident children, and educational services for community  
 188 awareness relative to the incidence of domestic violence, the  
 189 prevention of such violence, and the services available ~~care,~~  
 190 ~~treatment, and rehabilitation~~ for persons engaged in or subject  
 191 to domestic violence. If a 24-hour hotline, professional  
 192 training, or community education is already provided by a  
 193 certified domestic violence center within its designated service  
 194 ~~area a district~~, the department may exempt such certification  
 195 requirements for a new center serving the same service area  
 196 ~~district~~ in order to avoid duplication of services.

197 (g) File with the Florida Coalition Against Domestic  
 198 ~~Violence department~~ a list of the names of the domestic violence  
 199 advocates who are employed or who volunteer at the domestic  
 200 violence center who may claim a privilege under s. 90.5036 to  
 201 refuse to disclose a confidential communication between a victim  
 202 of domestic violence and the advocate regarding the domestic  
 203 violence inflicted upon the victim. The list must include the

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204 title of the position held by the advocate whose name is listed  
 205 and a description of the duties of that position. A domestic  
 206 violence center must file amendments to this list as necessary.

207 (i) If its center is a new center applying for  
 208 certification, demonstrate that the services provided address a  
 209 need identified in the most current statewide needs assessment  
 210 approved by the department. If the center applying for initial  
 211 certification proposes providing services in an area that has an  
 212 existing certified domestic violence center, the center applying  
 213 for initial certification must demonstrate the unmet need in  
 214 that service area and describe its efforts to avoid duplication  
 215 of services.

216 (2) If the department finds that there is failure by a  
 217 center to comply with the requirements established under this  
 218 part or with the rules adopted pursuant thereto, the department  
 219 may deny, suspend, or revoke the certification of the center.  
 220 The grant, denial, suspension, or revocation of certification  
 221 does not constitute agency action under chapter 120.

222 (3) The annual certificate ~~shall~~ automatically expires  
 223 expire on June 30 of each state fiscal year unless the  
 224 certification is temporarily extended to allow the center to  
 225 implement a corrective action plan ~~the termination date shown on~~  
 226 ~~the certificate.~~

227 (5) Domestic violence centers may be established throughout  
 228 the state when private, local, state, or federal funds are  
 229 available and a need is demonstrated.

230 (6) In order to receive state funds, a center must:

231 (a) Obtain certification pursuant to this part. However,  
 232 the issuance of a certificate does will not obligate the Florida

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233 Coalition Against Domestic Violence ~~department~~ to provide  
234 funding.

235 (7)

236 (b) A contract between the coalition statewide association  
237 and a certified domestic violence center shall contain  
238 provisions ensuring ~~assuring~~ the availability and geographic  
239 accessibility of services throughout the service area district.  
240 For this purpose, a center may distribute funds through  
241 subcontracts or to center satellites, if provided such  
242 arrangements and any subcontracts are approved by the Florida  
243 Coalition Against Domestic Violence statewide association.

244 Section 4. Subsection (18) of section 381.006, Florida  
245 Statutes, is amended to read:

246 381.006 Environmental health.—The department shall conduct  
247 an environmental health program as part of fulfilling the  
248 state's public health mission. The purpose of this program is to  
249 detect and prevent disease caused by natural and manmade factors  
250 in the environment. The environmental health program shall  
251 include, but not be limited to:

252 (18) A food service inspection function for domestic  
253 violence centers that are certified by the Department of  
254 Children and Family Services and monitored by the Florida  
255 Coalition Against Domestic Violence Department of Children and  
256 Family Services under part XII of chapter 39 and group care  
257 homes as described in subsection (16), which shall be conducted  
258 annually and be limited to the requirements in department rule  
259 applicable to community-based residential facilities with five  
260 or fewer residents.

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262 The department may adopt rules to carry out the provisions of  
263 this section.

264 Section 5. Paragraph (b) of subsection (1) of section  
265 381.0072, Florida Statutes, is amended to read:

266 381.0072 Food service protection.—It shall be the duty of  
267 the Department of Health to adopt and enforce sanitation rules  
268 consistent with law to ensure the protection of the public from  
269 food-borne illness. These rules shall provide the standards and  
270 requirements for the storage, preparation, serving, or display  
271 of food in food service establishments as defined in this  
272 section and which are not permitted or licensed under chapter  
273 500 or chapter 509.

274 (1) DEFINITIONS.—As used in this section, the term:

275 (b) "Food service establishment" means detention  
276 facilities, public or private schools, migrant labor camps,  
277 assisted living facilities, adult family-care homes, adult day  
278 care centers, short-term residential treatment centers,  
279 residential treatment facilities, homes for special services,  
280 transitional living facilities, crisis stabilization units,  
281 hospices, prescribed pediatric extended care centers,  
282 intermediate care facilities for persons with developmental  
283 disabilities, boarding schools, civic or fraternal  
284 organizations, bars and lounges, vending machines that dispense  
285 potentially hazardous foods at facilities expressly named in  
286 this paragraph, and facilities used as temporary food events or  
287 mobile food units at any facility expressly named in this  
288 paragraph, where food is prepared and intended for individual  
289 portion service, including the site at which individual portions  
290 are provided, regardless of whether consumption is on or off the

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291 premises and regardless of whether there is a charge for the  
 292 food. The term does not include any entity not expressly named  
 293 in this paragraph; nor does the term include a domestic violence  
 294 center certified by the Department of Children and Family  
 295 Services and monitored by the Florida Coalition Against Domestic  
 296 Violence ~~Department of Children and Family Services~~ under part  
 297 XII of chapter 39 if the center does not prepare and serve food  
 298 to its residents and does not advertise food or drink for public  
 299 consumption.

300 Section 6. Section 741.281, Florida Statutes, is amended to  
 301 read:

302 741.281 Court to order batterers' intervention program  
 303 attendance.—If a person is found guilty of, has ~~had~~ adjudication  
 304 withheld on, or pleads ~~has pled~~ nolo contendere to a crime of  
 305 domestic violence, as defined in s. 741.28, that person shall be  
 306 ordered by the court to a minimum term of 1 year's probation and  
 307 the court shall order that the defendant attend a batterers'  
 308 intervention program as a condition of probation. The court must  
 309 impose the condition of the batterers' intervention program for  
 310 a defendant under this section, but the court, in its  
 311 discretion, may determine not to impose the condition if it  
 312 states on the record why a batterers' intervention program might  
 313 be inappropriate. The court must impose the condition of the  
 314 batterers' intervention program for a defendant placed on  
 315 probation unless the court determines that the person does not  
 316 qualify for the batterers' intervention program pursuant to s.  
 317 741.325. ~~Effective July 1, 2002, the batterers' intervention~~  
 318 ~~program must be a certified program under s. 741.32.~~ The  
 319 imposition of probation under this section does ~~shall~~ not

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320 preclude the court from imposing any sentence of imprisonment  
 321 authorized by s. 775.082.

322 Section 7. Paragraph (g) of subsection (2) of section  
 323 741.2902, Florida Statutes, is amended to read:

324 741.2902 Domestic violence; legislative intent with respect  
 325 to judiciary's role.—

326 (2) It is the intent of the Legislature, with respect to  
 327 injunctions for protection against domestic violence, issued  
 328 pursuant to s. 741.30, that the court shall:

329 (g) Consider requiring the perpetrator to complete a  
 330 batterers' intervention program. It is preferred that such  
 331 program meet the requirements specified in s. 741.325 ~~be~~  
 332 ~~certified under s. 741.32.~~

333 Section 8. Paragraphs (a) and (e) of subsection (6) of  
 334 section 741.30, Florida Statutes, are amended to read:

335 741.30 Domestic violence; injunction; powers and duties of  
 336 court and clerk; petition; notice and hearing; temporary  
 337 injunction; issuance of injunction; statewide verification  
 338 system; enforcement.—

339 (6) (a) Upon notice and hearing, when it appears to the  
 340 court that the petitioner is either the victim of domestic  
 341 violence as defined by s. 741.28 or has reasonable cause to  
 342 believe he or she is in imminent danger of becoming a victim of  
 343 domestic violence, the court may grant such relief as the court  
 344 deems proper, including an injunction:

345 1. Restraining the respondent from committing any acts of  
 346 domestic violence.

347 2. Awarding to the petitioner the exclusive use and  
 348 possession of the dwelling that the parties share or excluding

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349 the respondent from the residence of the petitioner.

350 3. On the same basis as provided in chapter 61, providing  
351 the petitioner with 100 percent of the time-sharing in a  
352 temporary parenting plan that remains ~~shall remain~~ in effect  
353 until the order expires or an order is entered by a court of  
354 competent jurisdiction in a pending or subsequent civil action  
355 or proceeding affecting the placement of, access to, parental  
356 time with, adoption of, or parental rights and responsibilities  
357 for the minor child.

358 4. On the same basis as provided in chapter 61,  
359 establishing temporary support for a minor child or children or  
360 the petitioner. An order of temporary support remains in effect  
361 until the order expires or an order is entered by a court of  
362 competent jurisdiction in a pending or subsequent civil action  
363 or proceeding affecting child support.

364 5. Ordering the respondent to participate in treatment,  
365 intervention, or counseling services to be paid for by the  
366 respondent. When the court orders the respondent to participate  
367 in a batterers' intervention program, the court, or any entity  
368 designated by the court, must provide the respondent with a list  
369 of ~~all certified~~ batterers' intervention programs ~~and all~~  
370 ~~programs which have submitted an application to the Department~~  
371 ~~of Children and Family Services to become certified under s.~~  
372 ~~741.32,~~ from which the respondent must choose a program in which  
373 to participate. ~~If there are no certified batterers'~~  
374 ~~intervention programs in the circuit, the court shall provide a~~  
375 ~~list of acceptable programs from which the respondent must~~  
376 ~~choose a program in which to participate.~~

377 6. Referring a petitioner to a certified domestic violence

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378 center. The court must provide the petitioner with a list of  
379 certified domestic violence centers in the circuit which the  
380 petitioner may contact.

381 7. Ordering such other relief as the court deems necessary  
382 for the protection of a victim of domestic violence, including  
383 injunctions or directives to law enforcement agencies, as  
384 provided in this section.

385 (e) An injunction for protection against domestic violence  
386 entered pursuant to this section, on its face, may order that  
387 the respondent attend a batterers' intervention program as a  
388 condition of the injunction. Unless the court makes written  
389 factual findings in its judgment or order which are based on  
390 substantial evidence, stating why batterers' intervention  
391 programs would be inappropriate, the court shall order the  
392 respondent to attend a batterers' intervention program if:

393 1. It finds that the respondent willfully violated the ex  
394 parte injunction;

395 2. The respondent, in this state or any other state, has  
396 been convicted of, had adjudication withheld on, or pled nolo  
397 contendere to a crime involving violence or a threat of  
398 violence; or

399 3. The respondent, in this state or any other state, has  
400 had at any time a prior injunction for protection entered  
401 against the respondent after a hearing with notice.

402 ~~It is mandatory that such programs be certified under s. 741.32.~~

403 Section 9. Subsection (5) of section 741.316, Florida  
404 Statutes, is amended to read:

405 741.316 Domestic violence fatality review teams;

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407 definition; membership; duties.-

408 (5) The domestic violence fatality review teams are  
409 assigned to the Florida Coalition Against Domestic Violence  
410 ~~Department of Children and Family Services~~ for administrative  
411 purposes.

412 Section 10. Section 741.32, Florida Statutes, is amended to  
413 read:

414 741.32 ~~Certification of~~ Batterers' intervention programs.-

415 ~~(1)~~ The Legislature finds that the incidence of domestic  
416 violence in this state Florida is disturbingly high, and that,  
417 despite the efforts of many to curb this violence, ~~that~~ one  
418 person dies at the hands of a spouse, ex-spouse, or cohabitant  
419 approximately every 3 days. Further, a child who witnesses the  
420 perpetration of this violence becomes a victim as he or she  
421 hears or sees it occurring. This child is at high risk of also  
422 being the victim of physical abuse by the parent who is  
423 perpetrating the violence and, to a lesser extent, by the parent  
424 who is the victim. These children are also at a high risk of  
425 perpetrating violent crimes as juveniles and, later, becoming  
426 perpetrators of the same violence that they witnessed as  
427 children. The Legislature finds that there should be  
428 standardized programming available to the justice system to  
429 protect victims and their children and to hold the perpetrators  
430 of domestic violence accountable for their acts. Finally, the  
431 Legislature recognizes that in order for batterers' intervention  
432 programs to be successful in protecting victims and their  
433 children, all participants in the justice system as well as  
434 social service agencies and local and state governments must  
435 coordinate their efforts at the community level.

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436 ~~(2) There is hereby established in the Department of~~  
437 ~~Children and Family Services an Office for Certification and~~  
438 ~~Monitoring of Batterers' Intervention Programs. The department~~  
439 ~~may certify and monitor both programs and personnel providing~~  
440 ~~direct services to those persons who are adjudged to have~~  
441 ~~committed an act of domestic violence as defined in s. 741.28,~~  
442 ~~those against whom an injunction for protection against domestic~~  
443 ~~violence is entered, those referred by the department, and those~~  
444 ~~who volunteer to attend such programs. The purpose of~~  
445 ~~certification of programs is to uniformly and systematically~~  
446 ~~standardize programs to hold those who perpetrate acts of~~  
447 ~~domestic violence responsible for those acts and to ensure~~  
448 ~~safety for victims of domestic violence. The certification and~~  
449 ~~monitoring shall be funded by user fees as provided in s.~~  
450 ~~741.327.~~

451 Section 11. Section 741.325, Florida Statutes, is amended  
452 to read:

453 741.325 Requirements for batterers' intervention programs  
454 Guideline authority.-

455 (1) A batterers' intervention program must meet the  
456 following requirements ~~The Department of Children and Family~~  
457 ~~Services shall promulgate guidelines to govern purpose,~~  
458 ~~policies, standards of care, appropriate intervention~~  
459 ~~approaches, inappropriate intervention approaches during the~~  
460 ~~batterers' program intervention phase (to include couples~~  
461 ~~counseling and mediation), conflicts of interest, assessment,~~  
462 ~~program content and specifics, qualifications of providers, and~~  
463 ~~credentials for facilitators, supervisors, and trainees. The~~  
464 ~~department shall, in addition, establish specific procedures~~

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465 ~~governing all aspects of program operation, including~~  
 466 ~~administration, personnel, fiscal matters, victim and batterer~~  
 467 ~~records, education, evaluation, referral to treatment and other~~  
 468 ~~matters as needed. In addition, the rules shall establish:~~

469 ~~(a)(1) That~~ The primary purpose of the program programs  
 470 shall be victim safety and the safety of ~~the~~ children, if  
 471 present.

472 ~~(b)(2) That~~ The batterer shall be held accountable for acts  
 473 of domestic violence.

474 ~~(c)(3) That~~ The program programs shall be at least 29 weeks  
 475 in length and ~~shall~~ include 24 weekly sessions, plus appropriate  
 476 intake, assessment, and orientation programming.

477 ~~(d)(4) That~~ The program content shall be based on ~~be a~~  
 478 psychoeducational model that addresses ~~employs a program content~~  
 479 ~~based on~~ tactics of power and control by one person over  
 480 another.

481 ~~(5) That the programs and those who are facilitators,~~  
 482 ~~supervisors, and trainees be certified to provide these programs~~  
 483 ~~through initial certification and that the programs and~~  
 484 ~~personnel be annually monitored to ensure that they are meeting~~  
 485 ~~specified standards.~~

486 ~~(e)(6) The intent that~~ The program shall programs be user-  
 487 fee funded by user with fees paid by ~~from~~ the batterers who  
 488 attend the program, which allows them to take ~~as payment for~~  
 489 ~~programs is important to the batterer taking~~ responsibility for  
 490 their acts ~~the act of violence, and from those seeking~~  
 491 certification. An exception shall be made for those local,  
 492 state, or federal programs that fund batterers' intervention  
 493 programs in whole or in part.

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494 ~~(7) Standards for rejection and suspension for failure to~~  
 495 ~~meet certification standards.~~

496 ~~(2)(8) The requirements of this section~~ That these  
 497 ~~standards shall~~ apply only to programs that address the  
 498 perpetration of violence between intimate partners, spouses, ex-  
 499 spouses, or those who share a child in common or who are  
 500 cohabitants in intimate relationships for the purpose of  
 501 exercising power and control by one over the other. It will  
 502 endanger victims if courts and other referral agencies refer  
 503 family and household members who are not perpetrators of the  
 504 type of domestic violence encompassed by these requirements  
 505 ~~standards~~. Accordingly, the court and others who make referrals  
 506 should refer perpetrators only to programming that appropriately  
 507 addresses the violence committed.

508 Section 12. Section 741.327, Florida Statutes, is repealed.

509 Section 13. Section 948.038, Florida Statutes, is amended  
 510 to read:

511 948.038 Batterers' intervention program as a condition of  
 512 probation, community control, or other court-ordered community  
 513 supervision.-As a condition of probation, community control, or  
 514 any other court-ordered community supervision, the court shall  
 515 order a person convicted of an offense of domestic violence, as  
 516 defined in s. 741.28, to attend and successfully complete a  
 517 batterers' intervention program unless the court determines that  
 518 the person does not qualify for the batterers' intervention  
 519 program pursuant to s. 741.325. ~~The batterers' intervention~~  
 520 ~~program must be a program certified under s. 741.32, and the~~  
 521 offender must pay the cost of attending the program.

522 Section 14. Paragraph (a) of subsection (1) of section

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523 938.01, Florida Statutes, is amended to read:  
524 938.01 Additional Court Cost Clearing Trust Fund.—  
525 (1) All courts created by Art. V of the State Constitution  
526 shall, in addition to any fine or other penalty, require every  
527 person convicted for violation of a state penal or criminal  
528 statute or convicted for violation of a municipal or county  
529 ordinance to pay \$3 as a court cost. Any person whose  
530 adjudication is withheld pursuant to the provisions of s.  
531 318.14(9) or (10) shall also be liable for payment of such cost.  
532 In addition, \$3 from every bond estreature or forfeited bail  
533 bond related to such penal statutes or penal ordinances shall be  
534 remitted to the Department of Revenue as described in this  
535 subsection. However, no such assessment may be made against any  
536 person convicted for violation of any state statute, municipal  
537 ordinance, or county ordinance relating to the parking of  
538 vehicles.  
539 (a) All costs collected by the courts pursuant to this  
540 subsection shall be remitted to the Department of Revenue in  
541 accordance with administrative rules adopted by the executive  
542 director of the Department of Revenue for deposit in the  
543 Additional Court Cost Clearing Trust Fund. These funds and the  
544 funds deposited in the Additional Court Cost Clearing Trust Fund  
545 pursuant to s. 318.21(2)(c) shall be distributed as follows:  
546 1. Ninety-two percent to the Department of Law Enforcement  
547 Criminal Justice Standards and Training Trust Fund.  
548 2. Six and three-tenths percent to the Department of Law  
549 Enforcement Operating Trust Fund for the Criminal Justice Grant  
550 Program.  
551 3. One and seven-tenths percent to the Department of

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552 Children and Family Services Domestic Violence Trust Fund for  
553 the domestic violence program pursuant to s. 39.903(2)~~(3)~~.  
554 Section 15. This act shall take effect July 1, 2012.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/19/12  
Meeting Date

Topic Domestic Violence Bill Number 7168 (if applicable)

Name Leisa Wiseman Amendment Barcode \_\_\_\_\_ (if applicable)

Job Title Director External : Internal Affairs

Address 425 Office Plaza DR Phone 850/425-2749

Tallahassee, FL 32317 E-mail wiseman-leisa@fcadv.org  
City State Zip

Speaking:  For  Against  Information

Representing Florida Coalition Against Domestic Violence

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

**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.)

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Prepared By: The Professional Staff of the Children, Families, and Elder Affairs Committee

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BILL: SPB 7048

INTRODUCER: Children, Families, and Elder Affairs Committee

SUBJECT: Department of Children and Family Services

DATE: January 18, 2012

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Preston	Farmer	CF	<b>Pre-meeting</b>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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**I. Summary:**

This legislation reenacts and authorizes the Department of Children and Family Services (DCF or the department) to reorganize. The bill changes the name of the agency to “Department of Children and Families” and establishes organizational units called “circuits” and “regions.” The bill removes provisions related to the department’s mission and purpose, provisions related to program offices and directors, and obsolete language related to service districts and a prototype region. The bill makes the establishment of community alliances permissive and changes alliance membership. The bill removes a provision enacted in an effort to keep caseloads for child protective investigators and case workers at levels recommended as best practice by the Child Welfare League of America.

This bill substantially amends ss. 20.04, 20.19, 20.43, 39.01, 394.78 and 420.622 of the Florida Statutes.

**II. Present Situation:**

**Background**

The department has undergone major reorganizations and divestitures over the years. In 2002, the Governor’s Blue Ribbon Panel on Child Protection found that the Florida Legislature had mandated some form of reorganization for the department 22 times in the preceding 33 years.<sup>1</sup>

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<sup>1</sup> Governor's Blue Ribbon Panel on Child Protection (May 27, 2002) Retrieved January 3, 2012 from <http://archives.cnn.com/2002/US/05/27/florida.child.report/index.html>.

In 1975, the department was reorganized to transfer operational responsibilities to a local service district level under a single administrator in an effort to resolve the problems associated with providing and coordinating health and human services to a multi-problem client. Divisions were abolished and program offices were created. Eleven service districts were established with a district administrator having line authority over all programs and services within that district.<sup>2</sup>In 1992, four additional service districts were created for a total of 15.<sup>3</sup>

In 2000, significant reorganization was mandated, including the establishment of a prototype region and community alliances.<sup>4</sup> The goal of creating a prototype region was to improve the efficiency and effectiveness of operation as well as to provide a model for the subsequent regionalization of the remainder of the department. The SunCoast region was implemented in 2001 and consisted of Pasco, Pinellas, Hillsborough, Manatee, Sarasota, and De Soto counties. The law stipulated that:

...The department shall evaluate the efficiency and effectiveness of the operation of the prototype region and upon a determination that there has been a demonstrated improvement in management and oversight of services or cost savings from more efficient administration of services, the secretary may consolidate management and administration of additional areas of the state...<sup>5</sup>

Unless the legislature provides authorization, any such consolidation must conform to the districts and subdistricts established in s. 20.19(5), F.S. To date, no additional regions have been established in law. However, the department is currently operating six regions in accordance with temporary legislative authority.<sup>6,7</sup>

Community alliances of stakeholders, community leaders, client representatives and funders of human services were required to be established in each county to provide a focal point for community participation and governance of community-based services. According to the department, community alliances were never developed in some areas, while in other areas they are active and effective.<sup>8</sup>

The department is responsible for planning, evaluating, and implementing comprehensive statewide substance abuse and mental health programs. These programs include adult community mental health, children's mental health, receiving and treatment facilities, and substance abuse prevention, intervention, and treatment services for adults and children.

Prior to 2003, the department's substance abuse and mental health programs operated within the decentralized district structure. The department's central office performed administrative functions, while the 13 districts and one region operated somewhat autonomously and controlled

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<sup>2</sup> Chapter 75-48, L.O.F.

<sup>3</sup> Chapter 92-58, L.O.F.

<sup>4</sup> Chapter 2000-139, L.O.F.

<sup>5</sup> *Id.*

<sup>6</sup> Chapter 2007-174, L.O.F.

<sup>7</sup> The SunCoast region now consists of Pasco, Pinellas, Manatee, Sarasota, De Soto, Hillsborough, Charlotte, Glades, Hendry, Lee and Collier counties.

<sup>8</sup> Department of Children and Families, Staff Analysis and Economic Impact Statement, SB 1214, (March 3, 2011).

their own budgets, personnel, purchasing, contracting, and operations. A major issue that emerged as a result of this organizational structure was that staff reported to two separate chains of command. Local program supervisors reported to their district administrators, who reported to the department's Deputy Secretary for Operations. In the central office, substance abuse and mental health each had a separate director who answered to the department's Deputy Secretary for Programs. The central office had little influence with regard to district personnel and performance issues.<sup>9</sup>

In response to these issues and related concerns, the Florida Legislature mandated significant restructuring of the program in 2003.<sup>10</sup> To increase visibility and focus, a new program structure was created which gave the central office more control over policy, programs, and budget. The legislature also required the secretary to appoint an Assistant Secretary of Substance Abuse and Mental Health as well as a Director for Substance Abuse and a Director for Mental Health. Each of these program directors exerts direct line authority over all district substance abuse and mental health programs, including state hospital and institutional staff and control of program budgets and contracts. The Assistant Secretary for Substance Abuse and Mental Health is also required to enter into a memorandum of understanding with each district or region administrator describing their working relationship.<sup>11</sup> As a result of flexibility provided by the legislature to reorganize in 2007, the statutory organizational structure is no longer consistent with the working organizational structure.<sup>12</sup>

According to a 2005 evaluation of the reorganization by the Office of Program Policy Analysis and Government Accountability (OPPAGA), the more centralized structure offered a number of benefits including:<sup>13</sup>

- Greater visibility and program support;
- Greater intradepartmental cohesion due to bringing mental health and substance abuse programs together;
- Faster decision-making;
- Increased standardization of policies and practices; and
- Enhanced accountability.

There have also been significant challenges associated with increased centralization which have prompted the department to initiate changing the structure again. The OPPAGA report identified two major issues:<sup>14</sup>

- Difficulty for both district and central office staff to maintain communication with other programs, both inside and outside the department; and

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<sup>9</sup> The Florida Senate. *Agency Sunset Review of the Department of Children and Family Services*. Committee on Children, Families, and Elder Affairs. Issue Brief 2009-304, January 2009.

<sup>10</sup> Chapter 2003-279, L.O.F.

<sup>11</sup> *Id.*

<sup>12</sup> DCF, *Reorganization of the Department of Children and Families, Report to the Legislature*. (January 1, 2008). Retrieved January 3, 2012, from <http://www.dcf.state.fl.us/publications/docs/ReorgReport013108.pdf>.

<sup>13</sup> Office of program Policy Analysis and Government Accountability, *Centralizing DCF Substance Abuse and Mental Health Programs Provides Benefits But Also Challenges*. Report No. 05-07, February 2005.

<sup>14</sup> *Id.*

- Difficulty for central office staff to become familiar with local substance abuse and mental health issues.

An additional concern has been that substance abuse and mental health programs were not included in the 2004 department restructuring that consolidated its districts into six large zones for administrative purposes. Although the department's rationale for keeping substance abuse and mental health programs at the district level was to retain the community-based nature of these programs, one consequence has been that they must work within a different administrative structure.<sup>15</sup>

### **Current Statutory Organizational Requirements**

The department is created and organizationally structured pursuant to s. 20.19, F.S., with the express mission "to work in partnership with local communities to ensure the safety, well-being, and self-sufficiency of the people served." Although the department name established in statute is the Department of Children and Family Services, the department is authorized to use the name Department of Children and Families.<sup>16</sup>

The department is headed by a Secretary appointed by the Governor, subject to confirmation by the Senate. The Secretary is directed by current law to appoint the following specified positions:<sup>17</sup>

- Deputy Secretary who shall act in the absence of the Secretary;
- Assistant Secretary for Substance Abuse and Mental Health;
- Program Director for Mental Health and Program Director for Substance Abuse;
- Program directors to whom the Secretary may delegate responsibilities for the management, policy, program, and fiscal functions of the department; and
- District administrators for each of the service districts delineated in s. 20.19(5), F.S.

Section 20.19(7), F.S., provides for one prototype regional operational structure for the counties in the third, twelfth and thirteenth judicial circuits (SunCoast Region). The service districts and prototype region are statutorily responsible for all service delivery operations in their respective areas, with the exception of substance abuse and mental health services.<sup>18</sup>

Section 20.04(4), F.S., provides that within the department "there are organizational units called 'program offices,' headed by program directors." Section 20.19(4)(b), F.S., establishes the following program offices for the department:

- Adult Services;
- Child Care Services;

<sup>15</sup> The Florida Senate. *Agency Sunset Review of the Department of Children and Family Services*. Committee on Children, Families, and Elder Affairs. Issue Brief 2009-304, January 2009.

<sup>16</sup> Chapter 2007-174, L.O.F.

<sup>17</sup> ss. 20.19(2) and (3), F.S. and s. 20.19(5)(b), F.S.

<sup>18</sup> Pursuant to section 20.19(2)(c)1., F.S., the Program Director for Substance Abuse and the Program Director for Mental Health have direct line authority over all district substance abuse and mental health staff. Mental health institutions report to the Program Director for Mental Health.

- Domestic Violence;
- Economic Self-Sufficiency Services;
- Family Safety;
- Mental Health;
- Refugee Services; and
- Substance Abuse.

The Secretary is authorized to consolidate, restructure, or rearrange program and support offices in consultation with the Executive Office of the Governor, provided that any such changes are capable of meeting the functions, activities, and outcomes delineated in law. The Secretary is likewise authorized to appoint additional managers and administrators at his or her discretion. However, DCF is one of three executive agencies for which any additional offices may only be established by statutory enactment.<sup>19</sup>

### **Departmental Organization Work Group**

On January 17, 2007, Secretary Butterworth established a Department Organizational Review Work Group to examine the organizational structure of DCF. As a result of its review, the Work Group made multiple recommendations including the following:<sup>20</sup>

#### *Regionalization of Services*

- Adopt a regional structure for field operations.
- Implement a circuit-based model for the provision of community services and ensure a departmental leadership presence in each of Florida's 20 judicial circuits.

#### *Organizational Structure*

- Adopt a standardized template for the provision of community and administrative services and support at the regional and community level.

#### *Assistant Secretary for Operations*

- Modify the table of organization for the Office of the Assistant Secretary for Operations to reflect the changes in field services delivery.

#### *Assistant Secretary for Programs*

- Realign the table of organization for the Office of the Assistant Secretary for Programs to parallel the three elements of the Department's formal Mission Statement.
- Expand the role of the existing Office of Provider Relations.

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<sup>19</sup> Section 20.04(7)(b), F.S. The Departments of Transportation and Corrections are also subject to this restriction.

<sup>20</sup> *Organizational Review of the Department of Children and Families, Final Report of the Organizational Review Work Group (DRAFT)*(April 2, 2007).

- Reassign Headquarters Substance Abuse and Mental Health (SAMH) staff and treatment facilities to the Office of the Assistant Secretary for Programs and SAMH field personnel to the appropriate regional reporting structure.<sup>21</sup>
- Establish an ombudsman position.

#### *Office of Strategic Planning and Innovation*

- Create and staff an Office of Strategic Planning and Innovation.

#### *Quality Management*

- Designate the Office of Strategic Planning and Innovation as the entity responsible for setting quality and training standards, identifying appropriate resources to support Headquarters and field activities, and maintaining centralized databases on techniques and training standards.
- Transfer the Contract Oversight Unit to the Assistant Secretary for Programs to assure integration of efforts and to maximize communication.
- Distribute quality functions within regions, rather than reporting to Central Office.
- Move responsibility for strategic planning at the regional level to performance and planning teams.
- Adopt a regional model for Quality Assurance and Quality Improvement.

### **Current Organizational Structure of DCF**

In 2007, the Legislature authorized the department to reorganize its administrative structure.<sup>22,23</sup> Pursuant to this authority, and consistent with the recommendations of the Work Group, the department now plans, administers, and delivers most of its services to target groups through offices in six regions and 20 circuits aligned to match the state's 20 judicial circuits.<sup>24</sup> The regional offices are responsible for support services, contract management, and local program

<sup>21</sup> In reviewing the organization of Substance Abuse and Mental Health, the Work Group concluded that “the creation of the position of Assistant Secretary for Substance Abuse and Mental Health (SAMH) with a separate chain of command for SAMH personnel in the field, albeit necessary at one time to assure proper attention to the issue, has created a silo which impedes both communication and effective management of Departmental field resources.”

<sup>22</sup> Chapter 2007-174, L.O.F. Prior to passage of ch. 2007-174, L.O.F., services were provided by DCF in 13 operating districts and one prototype region (SunCoast), supported by six administrative zones and the Central Office Headquarters. Each district had a district administrator or, in the case of the SunCoast region, a regional director appointed by and responsible to the Secretary. The district administrator or regional director assumed responsibility for fiscal accountability in his or her district or region. In each zone, one designated district administrator acted as zone manager.

<sup>23</sup> The 2007 legislation provided the flexibility to the department to continue the process of making organizational changes notwithstanding the structural requirements of s. 20.19, F.S., to better serve the needs of citizens of Florida through additional improvements to the social services system in the State. That flexibility was extended through proviso in the 2008, 2009, 2010, and 2011 legislative sessions.

<sup>24</sup> DCF, *Reorganization of the Department of Children and Families, Report to the Legislature*, January 1, 2008. Retrieved January 3, 2012, from <http://www.dcf.state.fl.us/publications/docs/ReorgReport013108.pdf>. Circuits were made consistent with the geographic boundaries of judicial circuits, because of the department's ongoing and regular interaction with the State's court system.

office functions. The circuits are responsible for field operations, such as protective investigations for children and adults and public assistance eligibility determination.<sup>25</sup> An additional administrative change is the reintegration of the substance abuse and mental health programs into the administrative structure of the department. These programs now report to the deputy secretary and no longer have direct line authority over regional program supervisors.

Community alliances, comprised of community leaders, clients, and human service organizations, are responsible for establishing community priorities for service delivery, setting community-level outcome goals, promoting prevention and early intervention services, and serving as a catalyst for community resource development. The department is also permitted to establish additional community partnerships at the request of local communities to improve the delivery of services, and state level advisory groups to ensure and enhance communication among stakeholders, community leaders, and clients.

According to the department, prior to reorganization, local district administrators had authority over child welfare, economic self-sufficiency, and adult services. After reorganization, the circuit administrators (formerly known as district administrators) also have direct authority over substance abuse and mental health services, homelessness, domestic violence and refugee programs. The objective of moving decision-making to the circuit level is to allow the circuit administrators more opportunities for focusing resources as needed in the community:<sup>26</sup>

In its reorganization, the Department has pushed decision-making to the lowest appropriate level. Circuit Administrators have more authority over the entire array of Department services than in previous years... This allows Circuit Administrators the ability to focus resources as needed for direct services in their communities.<sup>27</sup>

To assure consistency and efficiency of operations throughout the state, the department has also adopted a standardized template for the provision of administrative services and support at the regional and circuit level.

In order to integrate Substance Abuse and Mental Health (SAMH) into the department's overall approach to the delivery of services, and to further align substance abuse and mental health services with the specific needs of the community, the department has:

- Appointed an Assistant Secretary for SAMH;
- Aligned the SAMH programs with the department's overall approach to circuit-based service delivery;
- Revised the organizational structure of the SAMH programs, so that SAMH activities in each circuit are being led by a SAMH Program Supervisor who reports to the circuit administrator;
- Taken action to more closely align SAMH programs statewide, by combining the SAMH Contract and Data Units in the central office; and

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<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

- Continued oversight for the State Mental Health Treatment Facilities, which report to the Assistance Secretary for SAMH with assistance from the Mental Health Chief of Facilities and the Director of Mental Health.<sup>28</sup>

### III. Effect of Proposed Changes:

The bill re-enacts the Department of Children and Family Services and places in statute the reorganization plans already accomplished by DCF in response to direction given during the 2007 legislative session.<sup>29</sup> The bill amends s. 20.04, F.S., and substantially rewords s. 20.19, F.S., as follows:

#### Department Reorganization

- Renames the "Department of Children and Family Services" to "Department of Children and Families;"
- Deletes provisions relating to the mission and purpose for the department;
- Removes the statutory responsibilities of the director for Substance Abuse and Mental Health, including but not limited to line authority over district staff;
- Deletes the directive for the director for Substance Abuse and Mental Health to have direct authority over mental health institutions;
- Requires the appointment of the Assistant Secretary for Substance Abuse and Mental Health;
- Provides authorization for the department to provide certain specified services;
- Amends current law changing service districts to organizational units to be called "circuits" and "regions". Circuits must conform to the geographic boundaries of judicial circuits prescribed in s. 26.021, F.S., and regions are to be comprised of multiple circuits; and
- Deletes the prototype region structure in current law, s. 20.19(7), F.S.

#### Community Alliances

- Makes the establishment of community alliances permissive; and
- Specifies changes to the membership of a community alliance;

The bill also deletes the requirement each fiscal year to develop projections of the number of child abuse cases and include in the department's legislative budget request a specific appropriation for an adequate number of child protective investigators and caseworkers.

The bill also amends s. 20.43, F.S., relating to the Department of Health (DOH), s. 39.01, F.S., relating to definitions, and s. 394.78, F.S., relating to operation and administration, to conform cross-references, and amends s. 420.622, relating to the State Office on Homelessness, to delete the requirement for the Governor to appoint an executive director of the office.

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<sup>28</sup> *Id.*

<sup>29</sup> Chapter 2007-174, L.O.F.

The bill provides for legislation during the 2013 regular legislative session to conform the Florida Statutes to changes made by the bill.

**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:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

In 2000, the Legislature enacted a provision in an effort to keep caseloads for child protective investigators and case workers at levels recommended as best practice by the Child Welfare League of America.<sup>30</sup> The law requires:

- Each fiscal year the secretary shall, in consultation with the relevant employee representatives, develop projections of the number of child abuse and neglect cases and shall include in the department's legislative budget request a specific appropriation for

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<sup>30</sup> Chapter 2000-139, L.O.F.

funds and positions for the next fiscal year in order to provide an adequate number of full-time equivalent:

- Child protection investigation workers so that caseloads do not exceed the Child Welfare League Standards by more than two cases; and
- Child protection case workers so that caseloads do not exceed the Child Welfare League Standards by more than two cases.<sup>31,32</sup>

The bill deletes this requirement from current law, which may adversely affect the caseloads of child protective investigators and case managers.

#### **VIII. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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<sup>31</sup> See s. 20.19(5)(c), F.S.

<sup>32</sup> The caseload recommendations from the Child Welfare League of America's Standards of Excellence for Services for Abused or Neglected Children and Their Families are: Initial assessment/investigation: 12 active families a month per worker; Ongoing services: 17 active families per worker and no more than 1 new case for every 6 open cases; and Combined assessment/investigation and ongoing services: 10 active ongoing families and 4 active investigations per worker Supervision: 5 social workers per supervisor. Retrieved January 4, 2012 from <http://www.childwelfare.gov/management/workforce/compendium/cwla.cfm>.

FOR CONSIDERATION By the Committee on Children, Families, and  
Elder Affairs

586-01624-12

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1 A bill to be entitled  
2 An act relating to the Department of Children and  
3 Family Services; amending s. 20.04, F.S.; changing the  
4 name of the department to the "Department of Children  
5 and Families"; requiring that the department be  
6 geographically organized into circuits and regions;  
7 amending s. 20.19, F.S.; revising provisions relating  
8 to the establishment of the department; providing for  
9 a Director for Substance Abuse and Mental Health,  
10 appointed by the secretary of the department; revising  
11 the services provided by the department and abolishing  
12 the program offices; deleting provisions establishing  
13 service districts; providing for community alliances  
14 to be established at the discretion of the department,  
15 rather than required; revising the membership  
16 requirements for community alliances; deleting  
17 provisions providing for a prototype region; deleting  
18 provisions providing an exemption from competitive  
19 bids for certain health services; amending s. 20.43,  
20 F.S., relating to the service areas of the Department  
21 of Health; conforming provisions to the abolishment of  
22 the service districts of the Department of Children  
23 and Family Services; amending s. 39.01, F.S.;  
24 conforming a cross-reference; amending s. 394.78,  
25 F.S.; removing an obsolete reference to health and  
26 human services boards; amending s. 420.622, F.S.,  
27 relating to the State Office on Homelessness within  
28 the Department of Children and Families; removing a  
29 requirement that the executive director of the office

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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30 be appointed by the Governor; providing for  
31 legislation to conform the Florida Statutes to changes  
32 made by the act; providing an effective date.  
33  
34 Be It Enacted by the Legislature of the State of Florida:  
35  
36 Section 1. Subsection (4) of section 20.04, Florida  
37 Statutes, is amended to read:  
38 20.04 Structure of executive branch.—The executive branch  
39 of state government is structured as follows:  
40 (4) Within the Department of Children and Families ~~Family~~  
41 ~~Services~~ there are organizational units called "circuits" and  
42 "regions." ~~"program offices," headed by program directors.~~ Each  
43 circuit is aligned geographically with each of the state's  
44 judicial circuits, and each region is comprised of multiple  
45 circuits that are in geographical proximity to each other.  
46 Section 2. Section 20.19, Florida Statutes, is amended to  
47 read:  
48 20.19 Department of Children and Families ~~Family Services~~.—  
49 There is created a Department of Children and Families ~~Family~~  
50 ~~Services~~.  
51 ~~(1) MISSION AND PURPOSE.—~~  
52 ~~(a) The mission of the Department of Children and Family~~  
53 ~~Services is to work in partnership with local communities to~~  
54 ~~ensure the safety, well being, and self-sufficiency of the~~  
55 ~~people served.~~  
56 ~~(b) The department shall develop a strategic plan for~~  
57 ~~fulfilling its mission and establish a set of measurable goals,~~  
58 ~~objectives, performance standards, and quality assurance~~

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59 requirements to ensure that the department is accountable to the  
60 people of Florida.

61 ~~(c) To the extent allowed by law and within specific~~  
62 ~~appropriations, the department shall deliver services by~~  
63 ~~contract through private providers.~~

64 (1)(2) SECRETARY OF CHILDREN AND FAMILIES FAMILY SERVICES;  
65 DEPUTY SECRETARY.-

66 (a) The head of the department is the Secretary of Children  
67 and Families Family Services. The secretary is appointed by the  
68 Governor, subject to confirmation by the Senate. The secretary  
69 serves at the pleasure of the Governor.

70 (b) The secretary shall appoint a deputy secretary who  
71 shall act in the absence of the secretary. The deputy secretary  
72 is directly responsible to the secretary, performs such duties  
73 as are assigned by the secretary, and serves at the pleasure of  
74 the secretary.

75 (c)1. The secretary shall appoint an Assistant Secretary  
76 for Substance Abuse and Mental Health. The assistant secretary  
77 shall serve at the pleasure of the secretary and must have  
78 expertise in both areas of responsibility.

79 2. The secretary shall appoint a Program Director for  
80 Substance Abuse and ~~a Program Director for Mental Health~~ who has  
81 have the requisite expertise and experience ~~in their respective~~  
82 ~~fields~~ to head the state's Substance Abuse and Mental Health  
83 Program Office programs.

84 ~~a. Each program director shall have line authority over all~~  
85 ~~district substance abuse and mental health program management~~  
86 ~~staff.~~

87 ~~b. The assistant secretary shall enter into a memorandum of~~

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88 understanding with each district or region administrator, which  
89 must be approved by the secretary or the secretary's designee,  
90 describing the working relationships within each geographic  
91 area.

92 ~~e. The mental health institutions shall report to the~~  
93 ~~Program Director for Mental Health.~~

94 ~~d. Each program director shall have direct control over the~~  
95 ~~program's budget and contracts for services. Support staff~~  
96 ~~necessary to manage budget and contracting functions within the~~  
97 ~~department shall be placed under the supervision of the program~~  
98 ~~directors.~~

99 ~~(d) The secretary has the authority and responsibility to~~  
100 ~~ensure that the mission of the department is fulfilled in~~  
101 ~~accordance with state and federal laws, rules, and regulations.~~

102 ~~(3) PROGRAM DIRECTORS. The secretary shall appoint program~~  
103 ~~directors who serve at the pleasure of the secretary. The~~  
104 ~~secretary may delegate to the program directors responsibilities~~  
105 ~~for the management, policy, program, and fiscal functions of the~~  
106 ~~department.~~

107 (2)(4) SERVICES PROVIDED PROGRAM OFFICES AND SUPPORT  
108 OFFICES.-

109 (a) The department shall provide the following services: ~~is~~  
110 authorized to establish program offices and support offices,  
111 each of which shall be headed by a director or other management  
112 position who shall be appointed by and serves at the pleasure of  
113 the secretary.

114 ~~(b) The following program offices are established:~~

115 1. Adult Protection Services.

116 2. Child Care Regulation Services.

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- 117 3. Child Welfare.  
 118 ~~4.3. Domestic Violence.~~  
 119 ~~5.4. Economic Self-Sufficiency Services.~~  
 120 ~~5. Family Safety.~~  
 121 6. Mental Health.  
 122 7. Refugee Services.  
 123 8. Substance Abuse.

124 ~~(b)(c) Program Offices and support offices~~ may be  
 125 consolidated, restructured, or rearranged by the secretary, in  
 126 consultation with the Executive Office of the Governor, if  
 127 ~~provided any~~ such consolidation, restructuring, or rearranging  
 128 is capable of meeting functions and activities and achieving  
 129 outcomes as delineated in state and federal laws, rules, and  
 130 regulations. The secretary may appoint additional managers and  
 131 administrators as he or she determines are necessary for the  
 132 effective management of the department.

133 ~~(5) SERVICE DISTRICTS.~~

134 ~~(a) The department shall plan and administer its programs~~  
 135 ~~of family services through service districts and subdistricts~~  
 136 ~~composed of the following counties:~~

- 137 ~~1. District 1. Escambia, Santa Rosa, Okaloosa, and Walton~~  
 138 ~~Counties.~~  
 139 ~~2. District 2, Subdistrict A. Holmes, Washington, Bay,~~  
 140 ~~Jackson, Calhoun, and Gulf Counties.~~  
 141 ~~3. District 2, Subdistrict B. Gadsden, Liberty, Franklin,~~  
 142 ~~Leon, Wakulla, Jefferson, Madison, and Taylor Counties.~~  
 143 ~~4. District 3. Hamilton, Suwannee, Lafayette, Dixie,~~  
 144 ~~Columbia, Gilchrist, Levy, Union, Bradford, Putnam, and Alachua~~  
 145 ~~Counties.~~

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- 146 ~~5. District 4. Baker, Nassau, Duval, Clay, and St. Johns~~  
 147 ~~Counties.~~  
 148 ~~6. District 5. Pasco and Pinellas Counties.~~  
 149 ~~7. District 6. Hillsborough and Manatee Counties.~~  
 150 ~~8. District 7, Subdistrict A. Seminole, Orange, and Osceola~~  
 151 ~~Counties.~~  
 152 ~~9. District 7, Subdistrict B. Brevard County.~~  
 153 ~~10. District 8, Subdistrict A. Sarasota and DeSoto~~  
 154 ~~Counties.~~  
 155 ~~11. District 8, Subdistrict B. Charlotte, Lee, Glades,~~  
 156 ~~Hendry, and Collier Counties.~~  
 157 ~~12. District 9. Palm Beach County.~~  
 158 ~~13. District 10. Broward County.~~  
 159 ~~14. District 11, Subdistrict A. Miami-Dade County.~~  
 160 ~~15. District 11, Subdistrict B. Monroe County.~~  
 161 ~~16. District 12. Flagler and Volusia Counties.~~  
 162 ~~17. District 13. Marion, Citrus, Hernando, Sumter, and Lake~~  
 163 ~~Counties.~~  
 164 ~~18. District 14. Polk, Hardee, and Highlands Counties.~~  
 165 ~~19. District 15. Indian River, Okeechobee, St. Lucie, and~~  
 166 ~~Martin Counties.~~

167 ~~(b) The secretary shall appoint a district administrator~~  
 168 ~~for each of the service districts. The district administrator~~  
 169 ~~shall serve at the pleasure of the secretary and shall perform~~  
 170 ~~such duties as assigned by the secretary.~~

171 ~~(c) Each fiscal year the secretary shall, in consultation~~  
 172 ~~with the relevant employee representatives, develop projections~~  
 173 ~~of the number of child abuse and neglect cases and shall include~~  
 174 ~~in the department's legislative budget request a specific~~

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175 ~~appropriation for funds and positions for the next fiscal year~~  
 176 ~~in order to provide an adequate number of full-time equivalent.~~

177 ~~1. Child protection investigation workers so that caseloads~~  
 178 ~~do not exceed the Child Welfare League Standards by more than~~  
 179 ~~two cases; and~~

180 ~~2. Child protection case workers so that caseloads do not~~  
 181 ~~exceed the Child Welfare League Standards by more than two~~  
 182 ~~eases.~~

183 ~~(3)(6)~~ COMMUNITY ALLIANCES.—

184 (a) The department may ~~shall~~, in consultation with local  
 185 communities, establish a community alliance of the stakeholders,  
 186 community leaders, client representatives, and funders of human  
 187 services in each county to provide a focal point for community  
 188 participation and governance of community-based services. An  
 189 alliance may cover more than one county when such arrangement is  
 190 determined to provide for more effective representation. The  
 191 community alliance shall represent the diversity of the  
 192 community.

193 (b) The duties of the community alliance shall include, but  
 194 not necessarily be limited to:

195 1. Joint planning for resource utilization in the  
 196 community, including resources appropriated to the department  
 197 and any funds that local funding sources choose to provide.

198 2. Needs assessment and establishment of community  
 199 priorities for service delivery.

200 3. Determining community outcome goals to supplement state-  
 201 required outcomes.

202 4. Serving as a catalyst for community resource  
 203 development.

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204 5. Providing for community education and advocacy on issues  
 205 related to delivery of services.

206 6. Promoting prevention and early intervention services.

207 (c) The department shall ensure, to the greatest extent  
 208 possible, that the formation of each community alliance builds  
 209 on the strengths of the existing community human services  
 210 infrastructure.

211 (d) The ~~initial~~ membership of the community alliance in a  
 212 county shall be composed of the following:

213 1. A representative from the department. ~~The district~~  
 214 ~~administrator.~~

215 2. A representative from county government.

216 3. A representative from the school district.

217 4. A representative from the county United Way.

218 5. A representative from the county sheriff's office.

219 6. A representative from the circuit court corresponding to  
 220 the county.

221 7. A representative from the county children's board, if  
 222 one exists.

223 (e) At any time after the initial meeting of the community  
 224 alliance, the community alliance shall adopt bylaws and may  
 225 increase the membership of the alliance to include ~~the state~~  
 226 ~~attorney for the judicial circuit in which the community~~  
 227 ~~alliance is located, or his or her designee, the public defender~~  
 228 ~~for the judicial circuit in which the community alliance is~~  
 229 ~~located, or his or her designee, and other individuals and~~  
 230 organizations who represent funding organizations, are community  
 231 leaders, have knowledge of community-based service issues, or  
 232 otherwise represent perspectives that will enable them to

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233 accomplish the duties listed in paragraph (b), if, in the  
 234 judgment of the alliance, such change is necessary to adequately  
 235 represent the diversity of the population within the community  
 236 alliance service circuits ~~districts~~.

237 (f) A member of the community alliance, other than a member  
 238 specified in paragraph (d), may not receive payment for  
 239 contractual services from the department or a community-based  
 240 care lead agency.

241 (g) Members of the community alliances shall serve without  
 242 compensation, but are entitled to receive reimbursement for per  
 243 diem and travel expenses, as provided in s. 112.061. Payment may  
 244 also be authorized for preapproved child care expenses or lost  
 245 wages for members who are consumers of the department's services  
 246 and for preapproved child care expenses for other members who  
 247 demonstrate hardship.

248 (h) Members of a community alliance are subject to the  
 249 provisions of part III of chapter 112, the Code of Ethics for  
 250 Public Officers and Employees.

251 (i) Actions taken by a community alliance must be  
 252 consistent with department policy and state and federal laws,  
 253 rules, and regulations.

254 (j) Alliance members shall annually submit a disclosure  
 255 statement of services interests to the department's inspector  
 256 general. Any member who has an interest in a matter under  
 257 consideration by the alliance must abstain from voting on that  
 258 matter.

259 (k) All alliance meetings are open to the public pursuant  
 260 to s. 286.011 and the public records provision of s. 119.07(1).

261 ~~(7) PROTOTYPE REGION.~~

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262 ~~(a) Notwithstanding the provisions of this section, the~~  
 263 ~~department may consolidate the management and administrative~~  
 264 ~~structure or function of the geographic area that includes the~~  
 265 ~~counties in the sixth, twelfth, and thirteenth judicial circuits~~  
 266 ~~as defined in s. 26.021. The department shall evaluate the~~  
 267 ~~efficiency and effectiveness of the operation of the prototype~~  
 268 ~~region and upon a determination that there has been a~~  
 269 ~~demonstrated improvement in management and oversight of services~~  
 270 ~~or cost savings from more efficient administration of services,~~  
 271 ~~the secretary may consolidate management and administration of~~  
 272 ~~additional areas of the state. Any such additional consolidation~~  
 273 ~~shall comply with the provisions of subsection (5) unless~~  
 274 ~~legislative authorization to the contrary is provided.~~

275 ~~(b) Within the prototype region, the budget transfer~~  
 276 ~~authority defined in paragraph (5)(b) shall apply to the~~  
 277 ~~consolidated geographic area.~~

278 ~~(c) The department is authorized to contract for children's~~  
 279 ~~services with a lead agency in each county of the prototype~~  
 280 ~~area, except that the lead agency contract may cover more than~~  
 281 ~~one county when it is determined that such coverage will provide~~  
 282 ~~more effective or efficient services. The duties of the lead~~  
 283 ~~agency shall include, but not necessarily be limited to:~~

284 ~~1. Directing and coordinating the program and children's~~  
 285 ~~services within the scope of its contract.~~

286 ~~2. Providing or contracting for the provision of core~~  
 287 ~~services, including intake and eligibility, assessment, service~~  
 288 ~~planning, and case management.~~

289 ~~3. Creating a service provider network capable of~~  
 290 ~~delivering the services contained in client service plans, which~~

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291 shall include identifying the necessary services, the necessary  
 292 volume of services, and possible utilization patterns and  
 293 negotiating rates and expectations with providers.  
 294 ~~4. Managing and monitoring of provider contracts and~~  
 295 ~~subcontracts.~~  
 296 ~~5. Developing and implementing an effective bill payment~~  
 297 ~~mechanism to ensure all providers are paid in a timely fashion.~~  
 298 ~~6. Providing or arranging for administrative services~~  
 299 ~~necessary to support service delivery.~~  
 300 ~~7. Utilizing departmentally approved training and meeting~~  
 301 ~~departmentally defined credentials and standards.~~  
 302 ~~8. Providing for performance measurement in accordance with~~  
 303 ~~the department's quality assurance program and providing for~~  
 304 ~~quality improvement and performance measurement.~~  
 305 ~~9. Developing and maintaining effective interagency~~  
 306 ~~collaboration to optimize service delivery.~~  
 307 ~~10. Ensuring that all federal and state reporting~~  
 308 ~~requirements are met.~~  
 309 ~~11. Operating a consumer complaint and grievance process.~~  
 310 ~~12. Ensuring that services are coordinated and not~~  
 311 ~~duplicated with other major payors, such as the local schools~~  
 312 ~~and Medicaid.~~  
 313 ~~13. Any other duties or responsibilities defined in s.~~  
 314 ~~409.1671 related to community-based care.~~  
 315 (4)(8) CONSULTATION WITH COUNTIES ON MANDATED PROGRAMS.—It  
 316 is the intent of the Legislature that when county governments  
 317 are required by law to participate in the funding of programs,  
 318 the department shall consult with designated representatives of  
 319 county governments in developing policies and service delivery

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320 plans for those programs.  
 321 ~~(9) PROCUREMENT OF HEALTH SERVICES.—Nothing contained in~~  
 322 ~~chapter 287 shall require competitive bids for health services~~  
 323 ~~involving examination, diagnosis, or treatment.~~  
 324 Section 3. Subsection (5) of section 20.43, Florida  
 325 Statutes, is amended to read:  
 326 20.43 Department of Health.—There is created a Department  
 327 of Health.  
 328 (5) The department shall plan and administer its public  
 329 health programs through its county health departments and may,  
 330 for administrative purposes and efficient service delivery,  
 331 establish up to 15 service areas to carry out such duties as may  
 332 be prescribed by the State Surgeon General. The boundaries of  
 333 the service areas shall ~~be the same as, or combinations of, the~~  
 334 ~~service districts of the Department of Children and Family~~  
 335 ~~Services established in s. 20.19 and, to the extent practicable,~~  
 336 ~~shall take into consideration the boundaries of the jobs and~~  
 337 ~~education regional boards.~~  
 338 Section 4. Subsection (27) of section 39.01, Florida  
 339 Statutes, is amended to read:  
 340 39.01 Definitions.—When used in this chapter, unless the  
 341 context otherwise requires:  
 342 (27) "District administrator" means the chief operating  
 343 officer of each service district of the department as defined in  
 344 s. 20.19~~(5)~~ and, where appropriate, includes any district  
 345 administrator whose service district falls within the boundaries  
 346 of a judicial circuit.  
 347 Section 5. Subsection (5) of section 394.78, Florida  
 348 Statutes, is amended to read:

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349 394.78 Operation and administration; personnel standards;  
350 procedures for audit and monitoring of service providers;  
351 resolution of disputes.-

352 ~~(5) In unresolved disputes regarding this part or rules~~  
353 ~~established pursuant to this part, providers and district health~~  
354 ~~and human services boards shall adhere to formal procedures~~  
355 ~~specified under s. 20.19(8)(n).~~

356 Section 6. Subsection (1) of section 420.622, Florida  
357 Statutes, is amended to read:

358 420.622 State Office on Homelessness; Council on  
359 Homelessness.-

360 (1) The State Office on Homelessness is created within the  
361 Department of Children and Families ~~Family Services~~ to provide  
362 interagency, council, and other related coordination on issues  
363 relating to homelessness. ~~An executive director of the office~~  
364 ~~shall be appointed by the Governor.~~

365 Section 7. During the 2013 regular legislative session, the  
366 Legislature shall adopt legislation to conform the Florida  
367 Statutes to the provisions of this act.

368 Section 8. This act shall take effect July 1, 2012.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/19/12  
Meeting Date

Topic DCF REORG Bill Number 7048  
Name JOHN COOPER Amendment Barcode \_\_\_\_\_  
Job Title ASST SEC FOR OPERATIONS (if applicable)  
Address 400 W. ROBINSON ST #1129 Phone 407 317-7000  
Street \_\_\_\_\_ (if applicable)  
City ORLANDO State FL Zip 32801 E-mail JOHN.K.COOPER@DCF.STATE.FL.U.

Speaking:  For  Against  Information

Representing DCF

Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-19-12  
Meeting Date

Topic Reorg Bill Number 7048  
Name Linda Murrell Amendment Barcode \_\_\_\_\_  
Job Title Health Consultant (if applicable)  
Address 599 Adams Comdecon Dr Phone \_\_\_\_\_  
Street \_\_\_\_\_ (if applicable)  
City Orlando State \_\_\_\_\_ Zip \_\_\_\_\_ E-mail \_\_\_\_\_

Speaking:  For  Against  Information

Representing Self - Veterans CDF Alliance

Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

**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 Children, Families, and Elder Affairs Committee

BILL: SPB 7176

INTRODUCER: For consideration by the Children, Families, and Elder Affairs Committee

SUBJECT: Assisted Living Facilities

DATE: January 18, 2012      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Daniell	Farmer	CF	<b>Pre-meeting</b>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

This proposed committee bill makes substantial revisions to state law relating to assisted living facilities. Specifically, the bill:

- Requires case managers to maintain records of face-to-face interaction with a mental health resident;
- Requires adequate and consistent monitoring and enforcement of community living support plans and cooperative agreements;
- Requires an assisted living facility (ALF or facility) to provide notice to residents of the confidentiality of certain information when making a complaint to the long-term care ombudsman;
- Specifies that an employee or agent of an agency that has regulatory responsibilities concerning persons in state-licensed facilities are mandatory reporters of abuse, neglect, or exploitation of the elderly;
- Defines “mental health professional”;
- Requires an assisted living facility that serves any mental health resident to obtain a limited mental health license;
- Provides requirements for a facility to follow when relocating or terminating the residency of a resident;
- Provides a process for a resident to challenge a facility’s notice to relocate or terminate the residency of the resident;
- Requires a preservice orientation for all employees or administrators hired on or after July 1, 2012;

- Requires every ALF to be under the management of a licensed administrator and provides educational and training requirements for an applicant to become an ALF administrator (applicant);
- Provides for a provisional license and inactive status in certain circumstances;
- Requires the Department of Elder Affairs (DOEA or department), in conjunction with other agencies, to develop a standardized curriculum for core training and competency tests related to the core training, and to develop curricula for continuing education;
- Requires applicants to have 40 hours of core training and successfully pass the competency test with a minimum score of 80;
- Requires applicants to complete 10 hours of supplemental training on certain topics;
- Requires staff members of an ALF who provide regular or direct care to residents to have 20 hours of core training and successfully pass the competency test with a minimum score of 70;
- Requires administrators and certain staff members of a limited mental health ALF to complete 8 hours of mental health training within 30 days after employment and pass a competency test;
- Requires administrators to have 18 hours every two years of continuing education and certain staff members to have 10 hours every two years of continuing education;
- Creates a certification process for trainers using a third-party credentialing entity approved by DOEA;
- Authorizes a resident to submit a request to a facility to have electronic monitoring devices in the resident's room and requires certain notices and consents to be given; and
- Makes technical and conforming changes.

This bill substantially amends the following sections of the Florida Statutes: 394.4574, 400.0078, 415.103, 415.1034, 429.02, 429.075, 429.176, 429.178, 429.28, and 429.52.

This bill creates the following sections of the Florida Statutes: 429.281, 429.50, 429.512, 429.521, 429.522, and 429.55.

## II. Present Situation:<sup>1</sup>

### Assisted Living Facilities

An assisted living facility (ALF or facility) is a residential establishment, or part of a residential establishment, that provides housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator.<sup>2</sup>

The ALFs are licensed by the Agency for Health Care Administration (AHCA or agency), pursuant to part I of ch. 429, F.S., relating to assisted living facilities, and part II of ch. 408, F.S., relating to the general licensing provisions for health care facilities. The ALFs are also subject to

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<sup>1</sup> Information contained in the Present Situation of this bill analysis is from an interim report by the Committee on Health Regulation of the Florida Senate. See Comm. on Health Reg., The Florida Senate, *Review Regulatory Oversight of Assisted Living Facilities in Florida* (Interim Report 2012-128) (Sept. 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-128hr.pdf> (last visited Jan. 17, 2012).

<sup>2</sup> Section 429.02(5), F.S.

regulation under Chapter 58A-5, Florida Administrative Code (F.A.C.). These rules are adopted by the Department of Elder Affairs (DOEA or department) in consultation with AHCA, the Department on Children and Family Services (DCF), and the Department of Health (DOH).<sup>3</sup>

An ALF is required to provide care and services appropriate to the needs of the residents accepted for admission to the facility. The owner or facility administrator determines whether an individual is appropriate for admission to the facility based on an assessment of the strengths, needs, and preferences of the individual; the health assessment; the preliminary service plan; the facility's residency criteria; services offered or arranged for by the facility to meet resident needs; and the ability of the facility to meet the uniform fire-safety standards.<sup>4</sup> If a resident no longer meets the criteria for continued residency, or the facility is unable to meet the resident's needs, as determined by the facility administrator or health care provider, the resident must be discharged in accordance with the Resident Bill of Rights.<sup>5</sup>

As of June 1, 2011, there were 2,956 licensed ALFs in Florida.<sup>6</sup> In addition to a standard license, an ALF may have specialty licenses that authorize an ALF to provide limited nursing services (LNS),<sup>7</sup> limited mental health (LMH) services,<sup>8</sup> and extended congregate care (ECC) services.<sup>9</sup> Out of the 2,956 licensed ALFs, 1,062 have LNS licenses, 1,100 have LMH licenses, and 278 have ECC licenses.<sup>10</sup>

#### ***Limited Nursing Services Specialty License***

An LNS specialty license enables an ALF to provide, directly or through contract, a select number of nursing services in addition to the personal services that are authorized under the standard license.

The nursing services authorized to be provided with this license are limited to acts specified in administrative rules,<sup>11</sup> may only be provided as authorized by a health care provider's order, and must be conducted and supervised in accordance with ch. 464, F.S., relating to nursing, and the prevailing standard of practice in the nursing community. A nursing assessment, that describes the type, amount, duration, scope, and outcomes or services that are rendered and the general status of the resident's health, is required to be conducted at least monthly on each resident who receives a limited nursing service.<sup>12</sup>

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<sup>3</sup> Section 429.41(1), F.S.

<sup>4</sup> Section 429.26, F.S., and Rule 58A-5.030, F.A.C.

<sup>5</sup> Section 429.28, F.S.

<sup>6</sup> Agency for Health Care Administration, *Assisted Living Directory*,

[http://ahca.myflorida.com/MCHQ/Long\\_Term\\_Care/Assisted\\_living/pdf/Directory\\_ALF.pdf](http://ahca.myflorida.com/MCHQ/Long_Term_Care/Assisted_living/pdf/Directory_ALF.pdf) (last visited July 15, 2011).

<sup>7</sup> Section 429.07(3)(c), F.S.

<sup>8</sup> An ALF that serves three or more mental health residents must obtain a limited mental health specialty license. A mental health resident is an individual who receives social security disability income (SSDI) due to a mental disorder or supplemental security income (SSI) due to a mental disorder, and receives optional state supplementation (OSS). *See* ss. 429.075 and 429.02(15), F.S.

<sup>9</sup> Section 429.07(3)(b), F.S.

<sup>10</sup> Agency for Health Care Administration, *Directories*,

[http://ahca.myflorida.com/MCHQ/Long\\_Term\\_Care/Assisted\\_living/alf.shtml](http://ahca.myflorida.com/MCHQ/Long_Term_Care/Assisted_living/alf.shtml) (last visited July 15, 2011).

<sup>11</sup> Rule 58A-5.031, F.A.C.

<sup>12</sup> Section 429.26, F.S., and Rule 58A-5.031(3)(c), F.A.C.

### ***Extended Congregate Care Specialty License***

An ECC specialty license enables an ALF to provide, directly or through contract, services performed by licensed nurses and supportive services<sup>13</sup> to persons who otherwise would be disqualified from continued residence in an ALF.<sup>14</sup>

The primary purpose of ECC services is to allow residents, as they become more impaired with physical or mental limitations, to remain in a familiar setting. An ALF licensed to provide ECC services may also admit an individual who exceeds the admission criteria for a facility with a standard license, if the individual is determined appropriate for admission to the ECC facility. A licensed facility must adopt its own requirements within guidelines for continued residency set forth by rule. However, the facility may not serve residents who require 24-hour nursing supervision.<sup>15</sup>

Facilities holding an ECC license must also:

- Ensure that the administrator of the facility and the ECC supervisor, if separate from the administrator, has a minimum of 2 years of managerial, nursing, social work, therapeutic recreation, or counseling experience in a residential, long-term care, or acute care setting or agency serving elderly or disabled persons. A baccalaureate degree may be substituted for 1 year of the required experience and a nursing home administrator is considered to be qualified for the position.
- Provide enough qualified staff to meet the needs of ECC residents considering the amount and type of services established in each resident's service plan.
- Immediately provide additional or more qualified staff, when the AHCA determines that service plans are not being followed or that residents' needs are not being met because of the lack of sufficient or adequately trained staff.
- Ensure and document that staff receive required ECC training.

### ***Limited Mental Health Specialty License***

An ALF that serves three or more mental health residents must obtain an LMH specialty license.<sup>16</sup> A mental health resident is an individual who receives social security disability income (SSDI) due to a mental disorder or supplemental security income (SSI) due to a mental disorder, and receives optional state supplementation (OSS).<sup>17,18</sup> The DCF is responsible for ensuring that

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<sup>13</sup> Supportive services include social service needs, counseling, emotional support, networking, assistance with securing social and leisure services, shopping service, escort service, companionship, family support, information and referral, assistance in developing and implementing self-directed activities, and volunteer services. See Rule 58A-5.030(8)(a), F.A.C.

<sup>14</sup> Section 429.07(3)(b), F.S., and Rule 58A-5.030, F.A.C.

<sup>15</sup> Section 429.07(3)(b), F.S.

<sup>16</sup> Section 429.075, F.S.

<sup>17</sup> Section 429.02(15), F.S.

<sup>18</sup> Optional State Supplementation is a cash assistance program. Its purpose is to supplement a person's income to help pay for costs in an assisted living facility, mental health residential treatment facility, or adult family care home, but it is not a Medicaid program. Department of Elder Affairs, *Florida Affordable Assisted Living: Optional State Supplementation (OSS)*, <http://elderaffairs.state.fl.us/faal/operator/statesupp.html> (last visited Aug. 17, 2011).

a mental health resident is assessed and determined able to live in the community in an ALF with an LMH license.<sup>19</sup>

The LMH licensee must execute a cooperative agreement between the ALF and the mental health care services provider. The cooperative agreement specifies, among other things, directions for the ALF accessing emergency and after-hours care for the mental health resident.

Additionally, according to Rule 58A-5.029, F.A.C., facilities holding an LMH license must:

- Provide an opportunity for private face-to-face contact between the mental health resident and the resident's mental health case manager or other treatment personnel of the resident's mental health care provider.
- Observe resident behavior and functioning in the facility, and record and communicate observations to the resident's mental health case manager or mental health care provider regarding any significant behavioral or situational changes which may signify the need for a change in the resident's professional mental health services, supports and services described in the community living support plan, or that the resident is no longer appropriate for residency in the facility.
- Ensure that designated staff have completed the required LMH training.
- Maintain facility, staff, and resident records in accordance with the requirements of the law.

### ***ALF Staffing Requirements***

Every ALF must be under the supervision of an administrator, who is responsible for the operation and maintenance of the facility, including the management of all staff and the provision of adequate care to all residents. An ALF administrator must be at least 21 years of age and, if employed on or after August 15, 1990, must have a high school diploma or general equivalency diploma (G.E.D.), or have been an operator or administrator of a licensed ALF in Florida for at least 1 of the past 3 years in which the facility has met minimum standards. However, all administrators employed on or after October 30, 1995, must have a high school diploma or G.E.D. An administrator must be in compliance with level 2 background screening standards and complete a core training requirement.<sup>20</sup>

Administrators may supervise a maximum of either three ALFs or a combination of housing and health care facilities or agencies on a single campus. However, administrators who supervise more than one facility must appoint in writing a separate "manager" for each facility who must be at least 21 years old and complete a core training requirement.<sup>21</sup>

All staff, who are employed by or contracted with the ALF to provide personal services to residents, must receive a level 2 background screening.<sup>22</sup>

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<sup>19</sup> Section 394.4574, F.S., requires a mental health resident to be assessed by a psychiatrist, clinical psychologist, clinical social worker, psychiatric nurse, or an individual who is supervised by one of these professionals to determine whether it is appropriate for the person to reside in an ALF.

<sup>20</sup> Section 429.174, F.S., and Rule 58A-5.019, F.A.C.

<sup>21</sup> *Id.*

<sup>22</sup> Section 408.809(1)(e), F.S. and s. 429.174, F.S.

### ***ALF Staff Training***

Administrators and other ALF staff must meet minimum training and education requirements established by the DOEA by rule.<sup>23</sup> This training and education is intended to assist facilities appropriately respond to the needs of residents, maintain resident care and facility standards, and meet licensure requirements.<sup>24</sup>

The ALF core training requirements established by the DOEA consist of a minimum of 26 hours of training and a competency test. Administrators and managers are required to successfully complete the ALF core training requirements within 3 months from the date of becoming a facility administrator or manager. Successful completion of the core training requirements includes passing the competency test.<sup>25</sup> The minimum passing score for the competency test is 75 percent.<sup>26</sup>

Administrators and managers must participate in 12 hours of continuing education in topics related to assisted living every 2 years. A newly hired administrator or manager, who has successfully completed the ALF core training and continuing education requirements, is not required to retake the core training. An administrator or manager, who has successfully completed the core training but has not maintained the continuing education requirements, is considered a new administrator or manager for the purposes of the core training requirements. He or she must retake the ALF core training and retake and pass the competency test.<sup>27</sup>

Facility administrators or managers are required to provide or arrange for the following in-service training to facility staff:

- Staff who provide direct care to residents, other than nurses, certified nursing assistants, or home health aides must receive a minimum of 1-hour in-service training in infection control, including universal precautions, and facility sanitation procedures before providing personal care to residents.<sup>28</sup>
- Staff who provide direct care to residents must receive a minimum of 1-hour in-service training within 30 days of employment that covers the reporting of major incidents, reporting of adverse incidents, and facility emergency procedures including chain-of-command and staff roles relating to emergency evacuation.
- Staff who provide direct care to residents, who have not taken the core training program, must receive a minimum of 1-hour in-service training within 30 days of employment that covers resident rights in an ALF and recognizing and reporting resident abuse, neglect, and exploitation.

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<sup>23</sup> Rule 58A-5.0191, F.A.C.

<sup>24</sup> Section 429.52(1), F.S.

<sup>25</sup> Rule 58A-5.0191, F.A.C.

<sup>26</sup> Administrators who have attended core training prior to July 1, 1997, and managers who attended the core training program prior to April 20, 1998, are not required to take the competency test. Administrators licensed as nursing home administrators in accordance with Part II of Chapter 468, F.S., are exempt from this requirement.

<sup>27</sup> Rule 58A-5.0191, F.A.C.

<sup>28</sup> Documentation of compliance with the staff training requirements of 29 CFR 1910.1030, relating to blood borne pathogens, may be used to meet this requirement. Rule 58A-5.0191(2)(a), F.A.C.

- Staff who provide direct care to residents, other than nurses, CNAs, or home health aides must receive 3 hours of in-service training within 30 days of employment that covers resident behavior and needs and providing assistance with the activities of daily living.
- Staff who prepare or serve food and who have not taken the ALF core training, must receive a minimum of 1-hour in-service training within 30 days of employment in safe food handling practices.
- All facility staff are required to receive in-service training regarding the facility's resident elopement response policies and procedures within 30 days of employment, must be provided with a copy of the facility's resident elopement response policies and procedures, and must demonstrate an understanding and competency in the implementation of the elopement response policies and procedures.<sup>29</sup>

The administrator, managers, and staff, who have direct contact with mental health residents in a licensed LMH facility, must receive the following training:<sup>30</sup>

- A minimum of 6 hours of specialized training in working with individuals with mental health diagnoses.
- A minimum of 3 hours of continuing education, which may be provided by the ALF administrator or through distance learning, biennially thereafter in subjects dealing with mental health diagnoses or mental health treatment.

Facilities are required to conduct a minimum of two resident elopement prevention and response drills per year. All administrators and direct care staff must participate in the drills, which must include a review of procedures to address resident elopement. Facilities must document the implementation of the drills and ensure that the drills are conducted in a manner consistent with the facility's resident elopement policies and procedures.<sup>31</sup>

### *Trainers*

Training for administrators must be performed by trainers registered with the DOEA. The trainer must provide the DOEA with proof that he or she has completed the minimum core training education requirements, successfully passed the competency test, and complied with continuing education requirements (12 contact hours of continuing education in topics related to assisted living every 2 years), and meet one of the following requirements:

- Provide proof of completion of a 4-year degree from an accredited college or university and have worked in a management position in an ALF for 3 years after being core certified;
- Have worked in a management position in an ALF for 5 years after being core certified and have 1 year of teaching experience as an educator or staff trainer for persons who work in ALFs or other long-term care settings;
- Have been previously employed as a core trainer for the DOEA;

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<sup>29</sup> Rule 58A-5.0191, F.A.C.

<sup>30</sup> Section 429.075, F.S. and Rule 58A-5.0191(8), F.A.C.

<sup>31</sup> Section 429.41(1)(a)3., F.S.

- Have a minimum of 5 years of employment with the AHCA, or formerly the Department of Health and Rehabilitative Services, as a surveyor of ALFs;
- Have a minimum of 5 years of employment in a professional position in the AHCA Assisted Living Unit;
- Have a minimum of 5 years employment as an educator or staff trainer for persons working in an ALF or other long-term care settings;
- Have a minimum of 5 years of employment as an ALF core trainer, which was not directly associated with the DOEA; or
- Have a minimum of a 4-year degree from an accredited college or university in the areas of healthcare, gerontology, social work, education or human services, and a minimum of 4 years experience as an educator or staff trainer for persons working in an ALF or other long-term care settings after core certification.<sup>32</sup>

### **Adult Protective Services**

The Department of Children and Family Services (DCF) is required under s. 415.103, F.S., to establish and maintain a central abuse hotline to receive reports, in writing or through a single statewide toll-free telephone number, of known or suspected abuse, neglect, or exploitation of a vulnerable adult<sup>33</sup> at any hour of the day or night, any day of the week.

Upon receiving an oral or written report of known or suspected abuse, neglect, or exploitation of a vulnerable adult, the central abuse hotline must determine if the report requires an immediate onsite protective investigation. For reports requiring an immediate onsite protective investigation, the central abuse hotline must immediately notify the DCF's designated district staff responsible for protective investigations to ensure prompt initiation of an onsite investigation. For reports not requiring an immediate onsite protective investigation, the central abuse hotline must notify the DCF's designated district staff responsible for protective investigations in sufficient time to allow for an investigation to be commenced within 24 hours. If the report is of known or suspected abuse of a vulnerable adult by someone other than a relative, caregiver, or household member, the report shall be immediately transferred to the appropriate county sheriff's office.<sup>34</sup>

The following persons, who know, or have reasonable cause to suspect, that a vulnerable adult has been or is being abused, neglected, or exploited are required to immediately report such knowledge or suspicion to the central abuse hotline:

- A physician, osteopathic physician, medical examiner, chiropractic physician, nurse, paramedic, emergency medical technician, or hospital personnel engaged in the admission, examination, care, or treatment of vulnerable adults;
- A health professional or mental health professional;
- A practitioner who relies solely on spiritual means for healing;

<sup>32</sup> Section 429.52(9)-(10), F.S. and Rule 58T-1.203, F.A.C.

<sup>33</sup> "Vulnerable adult" means a person 18 years of age or older whose ability to perform the normal activities of daily living or to provide for his or her own care or protection is impaired due to a mental, emotional, sensory, long-term physical, or developmental disability or dysfunction, or brain damage, or the infirmities of aging. Section 415.102(27), F.S.

<sup>34</sup> Section 415.103, F.S.

- Nursing home staff; assisted living facility staff; adult day care center staff; adult family-care home staff; social worker; or other professional adult care, residential, or institutional staff;
- A state, county, or municipal criminal justice employee or law enforcement officer;
- An employee of the Department of Business and Professional Regulation conducting inspections of public lodging establishments;
- A Florida advocacy council member or long-term care ombudsman council member; or
- An officer, trustee, or employee of a bank, savings and loan, or credit union.<sup>35</sup>

### **Florida's Long-Term Care Ombudsman Program**

The federal Older Americans Act (OAA) requires each state to create a Long-Term Care Ombudsman Program to be eligible to receive funding associated with programs under the OAA.<sup>36</sup> In Florida, the program is a statewide, volunteer-based system of district councils that protect, defend, and advocate on behalf of long-term care facility residents, including residents of nursing homes, ALFs, and adult family-care homes. The Office of State Long-Term Care Ombudsman (Office) is administratively housed in the DOEA and is headed by the State Long-Term Care Ombudsman, who is appointed by and serves at the pleasure of the Secretary of Elderly Affairs.<sup>37</sup> The program is supported with both federal and state funding.<sup>38</sup>

The Office is required to establish a statewide toll-free telephone number for receiving complaints concerning matters adversely affecting the health, safety, welfare, or rights of residents of nursing homes, ALFs and adult family care homes. Every resident or representative of a resident must receive, upon admission to a long-term care facility, information regarding the purpose of the State Program, the statewide toll-free telephone number for receiving complaints, and other relevant information regarding how to contact the State Program. Residents or their representatives must be furnished additional copies of this information upon request.<sup>39</sup>

The names or identities of the complainants or residents involved in a complaint, including any problem identified by an ombudsman council as a result of an investigation, are confidential and exempt from Florida's public records laws, unless the complainant or resident, or the legal representative of the complainant or resident, consents to the disclosure in writing; the complainant or resident consents orally and the consent is documented contemporaneously in writing by the ombudsman council requesting such consent; or the disclosure is required by court order.<sup>40</sup>

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<sup>35</sup> Section 415.1034, F.S.

<sup>36</sup> 42 U.S.C. 3058; *see also* s. 400.0061(1), F.S.

<sup>37</sup> Section 400.0063, F.S.

<sup>38</sup> According to *Florida's Long-Term Care Ombudsman Program 2009-2010 Annual Report*, in fiscal year 2009-2010, the program received a total of \$3,242,586 in funding; the state contribution totaled \$1,452,977. Florida's Long-Term Care Ombudsman Program, *2009-2010 Annual Report*, available at <http://ombudsman.myflorida.com/publications/ar/2009-2010%20Annual%20Report.pdf> (last visited Aug. 17, 2011).

<sup>39</sup> Section 400.0078, F.S.

<sup>40</sup> Section 400.0077(1)(b), F.S.

### **The Miami Herald Investigative Series on Assisted Living Facilities**

Beginning on April 30, 2011, the Miami Herald published a three-part series, titled “Neglected to Death,” which exposed several examples of abuses occurring in ALFs and the state regulatory responses to such cases. According to the publication, the Miami Herald spent a year examining thousands of state inspections, police reports, court cases, autopsy files, e-mails, and death certificates and conducting dozens of interviews with operators and residents throughout Florida.

The three-part investigative series gives several examples of abuses or neglect that took place at facilities in Florida, including:<sup>41</sup>

- The administrator of an ALF in Caryville punished his disabled residents by refusing to give them food and drugs, threatened the residents with a stick, doped the residents with powerful tranquilizers, beat residents who broke the facilities rules, forced residents to live without air conditioning even when temperatures reached 100 degrees Fahrenheit, and fell asleep on the job while a 71-year-old woman with mental illness wandered outside the facility and drowned in a nearby pond.
- In an ALF in Kendall, a 74-year-old woman was bound for more than 6 hours, the restraints pulled so tightly that they ripped into her skin and killed her.
- In an ALF in Hialeah, a 71-year-old man with mental illness died from burns after he was left in a bathtub filled with scalding water.
- In an ALF in Clearwater, a 75-year-old Alzheimer’s patient was torn apart by an alligator after he wandered from his ALF for the fourth time.
- In an ALF in Haines City, a 74-year-old suffering from diabetes and depression died after going 13 days without crucial antibiotics and several days without food or water.
- An ALF in Miami-Dade County had a door alarm and video cameras in disrepair, an unlocked back gate on the premises, and an attendant who had fallen asleep, which enabled an 85-year-old to wander from the facility and drown in a pond.
- The administrator of an ALF in Dunedin drove a male resident with a criminal history to a pharmacy to fill a prescription for powerful narcotics but failed to collect the drugs from the resident. The resident fed the drugs to a 20-year-old female resident with mental illness, raped her, and caused her to die of an overdose.
- In an ALF in Tampa, a 55-year-old man died after his caretakers failed to give him food, water, or medicine.
- An ALF in Orlando failed to give an 82-year-old woman critical heart medication for 4 days, failed to read her medical chart, and gave her the wrong drugs on the day she died.
- An ALF in West Melbourne shut off the facility’s exit alarm when it was triggered without doing a head count or calling 911 as a 74-year-old man slipped out the door and drowned in a nearby pond.
- An ALF in Deerfield Beach did not provide protections to a 98-year-old woman who fell 11 times and died of resulting injuries, including a fractured neck.

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<sup>41</sup> Rob Barry, Michael Sallah, and Carol Marbin Miller, *Neglected to Death, Part I*, THE MIAMI HERALD, April 30, 2011, available at <http://www.miamiherald.com/2011/04/30/2194842/once-pride-of-florida-now-scenes.html>. See Part II of the series here: <http://www.miamiherald.com/2011/05/03/2199747/key-medical-logs-doctored-missing.html> (see left side of article to access weblinks to the three-part series) (last visited Jan. 18, 2012).

- A caretaker in an ALF in Miami-Dade County strapped down a 74-year-old woman for at least 6 hours so tightly that she lost circulation in her legs and as a result a blood clot formed which killed her.

The investigative series decried the state's regulatory and law enforcement agencies responses to the alleged egregious acts claiming:<sup>42</sup>

- Nearly once a month residents die from abuse and neglect, with some caretakers altering and forging records to conceal evidence, but law enforcement agencies almost never make arrests.
- Facilities are routinely caught using illegal restraints, including powerful tranquilizers, locked closets, and ropes, but the state rarely punishes them.
- State regulators could have shut down 70 facilities in the past 2 years for a host of severe violations, but only seven facilities were closed.
- Although the number of ALFs has increased substantially over the last 5 years, the state has dropped critical inspections by 33 percent.
- Although the state has the authority to fine ALFs that break the law, the penalties are routinely decreased, delayed, or dropped altogether.
- The state's lack of enforcement has prompted other government agencies to cut off funding and in some cases the agencies refuse to send clients to live in certain ALFs.
- In at least one case, an investigation was never performed by the AHCA, although a woman drowned after wandering off the premises.
- It took the AHCA inspectors an average of 37 days to complete a complaint investigation in 2009, which was 10 days longer than 5 years earlier.
- At least five times, other state agencies were forced to take the lead in shutting down homes when the AHCA did not act.

### **Governor Rick Scott's ALF Task Force**

In response to the Miami Herald Investigative Series on ALFs, Governor Rick Scott announced in his veto message of HB 4045 (2011),<sup>43</sup> that he was going to form an ALF task force for the purpose of examining current assisted living regulations and oversight. Governor Scott directed the task force to develop recommendations to improve the state's ability to monitor quality and safety in ALFs and ensure the well-being of their residents.<sup>44</sup>

The task force, which has also been referred to as the "Assisted Living Workgroup," consisted of 14 members. These members represented the following entities:

- Florida Association of Homes and Services for the Aging.

<sup>42</sup> *Id.*

<sup>43</sup> HB 4045 (2011) repealed a requirement for the annual dissemination of a list of ALFs that had been sanctioned or fined, a requirement for an ALF to report monthly any liability claims filed against it, a requirement to disseminate the results of the inspection of each ALF, provisions concerning rule promulgation for ALFs by the DOEA, provisions concerning the collection of information regarding the cost of care in ALFs, and the authority for local governments or organizations to contribute to the cost of care of local facility residents.

<sup>44</sup> Governor Rick Scott, *Veto Message - HB 4045* (June 27, 2011), available at <http://www.flgov.com/wp-content/uploads/2011/06/hb4045.pdf> (last visited Jan. 18, 2012).

- Eastside Care, Inc.
- Palm Breeze Assisted Living Facility.
- Long Term Care Ombudsman.
- Florida House of Representatives.
- Lenderman and Associates.
- The Florida Bar, Elder Law Section.
- Florida State University, the Pepper Center.
- The Villa at Carpenters.
- Florida Council for Community Mental Health.
- Florida Assisted Living Association.
- Villa Serena I-V.
- Florida Senate.
- Florida Health Care Association.<sup>45</sup>

The task force held meetings on August 8, 2011, in Tallahassee, September 23, 2011, in Tampa, and November 7 and 8, 2011, in Miami. In addition to public testimony and presentations, the task force focused on ALF regulation, consumer protection and choice, and long-term care services and access. The task force supported several recommendations including:

- Increased administrator qualifications;
- Expanded and improved training for administrators and staff;
- Increased survey and inspection activity with a focus on facilities with poor track records;
- A systematic appeal process for residents who want to contest a notice of eviction;
- Increased reporting of resident data by facilities;
- Enhanced enforcement capacity by state agencies;
- Creation of a permanent policy review and oversight council with members representing all stakeholder groups;
- Requiring all facilities with at least one resident receiving mental health care to be licensed as a LMH facility; and
- Providing greater integration of information from all agencies involved in ALF regulation in order to identify potential problems sooner.<sup>46</sup>

The task force also noted that several other issues may need more time to evaluate and recommended that those issues be examined and addressed by a Phase II task force (or workgroup). Finally, there were some issues addressed by the task force that ended up not passing as part of a Phase I or Phase II recommendation.<sup>47</sup>

### **Committee on Health Regulation's Interim Report**

In addition to the task force, the Senate Committee on Health Regulation (committee) was

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<sup>45</sup> Agency for Health Care Administration, *Assisted Living Workgroup Members*, available at <http://ahca.myflorida.com/SCHS/ALWG2011/wgmembers.shtml> (last visited Aug. 17, 2011).

<sup>46</sup> Agency for Health Care Admin., *Assisted Living Workgroup, Final Report and Recommendations* (Dec. 12, 2011) (on file with the Senate Committee on Children, Families, and Elder Affairs).

<sup>47</sup> *Id.*

directed by the Senate President to review the regulatory oversight of ALFs in Florida.<sup>48</sup> Based on this review, the committee recommended several options for the Legislature to consider to improve regulatory oversight of ALFs. Some of the recommendations made by the committee included:

- Improving the current system of training administrators;
- Returning responsibility of core training to DOEA or providing DOEA with specific authority to oversee the core training activities;
- Expanding the core training curriculum to include financial planning, day-to-day administration of an ALF, elopement, emergency procedures, and the appropriate use of physical or chemical restraints;
- Requiring that the competency test be updated annually;
- Increasing the minimum passing score for the competency test from 75 percent to 80 percent;
- Requiring additional qualifications of administrators, such as requiring a 2 or 4-year degree that includes some coursework in gerontology or health care;
- Requiring administrators of an LMH facility to have completed some mental health coursework;
- Requiring staff members of an ALF to take a short exam after their requisite training to document receipt and comprehension of the training;
- Increasing elopement training requirements;
- Requiring an LMH specialty license for an ALF that accepts any mental health resident;
- Requiring professional development training by mental health providers or professionals for direct care staff of LMH facilities;
- Ensuring consistency in the monitoring of community living support plans and cooperative agreements;
- Requiring certain staff to immediately report the knowledge or suspicion that a vulnerable adult has been or is being abused, neglected, or exploited to the central abuse hotline operated by DCF; and
- Requiring facilities to notify residents that the complainant's identification and the substance of their complaints are confidential and exempt from Florida's public-record laws.<sup>49</sup>

### III. Effect of Proposed Changes:

This proposed committee bill makes substantial revisions to state law relating to assisted living facilities (ALF or facility).

#### **Limited Mental Health ALFs (sections 1 and 6 of the bill)**

This bill amends s. 394.4574, F.S., relating to the Department of Children and Family Services' (DCF) responsibilities for a mental health resident who resides in an ALF with a limited mental health (LMH) license. First, the bill requires that the community living support plan be updated

<sup>48</sup> The Florida Senate, *Senate Interim Work Plan, 2012 Session*, 121 (2011-12), available at <http://www.flsenate.gov/Committees/InterimReports/2012/workplan.pdf> (last visited Jan. 17, 2012).

<sup>49</sup> Comm. on Health Reg., *supra* note 1, at 32-35.

annually in order to ensure that the ongoing needs of the resident are addressed. The bill also requires that a case manager must keep a record of the date and time of any face-to-face interaction with a mental health resident. The record must be made available to DCF for inspection and be maintained for two years following the date of the interaction. Finally, the bill requires DCF to ensure there is adequate and consistent monitoring and enforcement of community living support plans and cooperative agreements.

The bill amends s. 429.075, F.S., to require that an ALF obtain a LMH license if the ALF serves any mental health resident. The bill also specifies that each administrator and staff member of an LMH facility must meet the limited mental health training requirements established by the bill in addition to any other training or education requirements.

### **Long-Term Care Ombudsman (sections 2 and 9)**

The bill requires a long-term care facility to provide information regarding the confidentiality of a complainant's name and identity and of the subject matter of a complaint upon admission to the facility.

Additionally, the bill amends the statute relating to the resident's bill of rights to require that written notice be given to residents of a facility that states that the names or identities of the complainants, or residents involved in a complaint, and the subject matter of a complaint made to the Office of State Long-Term Care Ombudsman or a local long-term care ombudsman council are confidential.

### **Reporting of Abuse (sections 3 and 4)**

This bill amends s. 415.1034, F.S., to include an employee or agent of any state or local agency that has regulatory responsibilities concerning, or provides services to, persons in state-licensed facilities to the list of persons who are required to report abuse, neglect, or exploitation of vulnerable adults.

The bill also amends s. 415.103, F.S., requiring DCF to maintain a central abuse hotline that receives reports made pursuant to the section of law created by the bill relating to the electronic monitoring of a resident's room.

### **Resident Relocation or Termination of Residency (sections 9 and 10)**

This bill creates s. 429.281, F.S., requiring a facility to give a resident 30 days notice prior to relocation or termination of residency, except in certain circumstances. The notice must be in writing and include the following:

- Information on how a resident may request that the local long-term care ombudsman council review the notice;

- The reason that the resident is being relocated or the residency is being terminated and an explanation supporting the action;
- The effective date of the relocation or termination of residency and the location to which the resident is being relocated, if known; and
- Information describing the resident's challenge rights and the procedures for filing a challenge.

This notice must be given to the resident, the resident's legal guardian or representative, and the local long-term care ombudsman council within five business days after signature by the resident.

The bill provides a resident the right to a hearing to challenge a facility's proposed relocation or termination of residency. If requested, the local long-term care ombudsman council must assist the resident with filing the challenge. The resident may request a hearing at any time within 10 days after the resident's receipt of the facility's notice. If a hearing is requested, it shall stay the proposed relocation or termination of residency pending a decision from the hearing officer.

The hearings are to be conducted by the Office of Appeals Hearings of DCF (office) and the office must notify the facility of a resident's request for a hearing. The resident, or the resident's legal guardian or representative, and the facility administrator, or the facility's legal representative or designee, are required to be present at the hearing. A representative of the local long-term care ombudsman council may be present at the hearing. The burden of proof at the hearing is by the preponderance of the evidence and a hearing officer must render a decision within 15 days after receipt of request for a hearing, unless the facility and the resident agree to extend the deadline. An aggrieved party may appeal the hearing officer's decision to the district court of appeal in the district where the facility is located.

The bill provides for an emergency relocation or termination of residency if pursuant to state or federal law. Notice of an emergency relocation or termination of residency must be made by telephone or in person and given to the resident, the resident's legal guardian or representative, and the local long-term care ombudsman council, if requested. The notice must be given before relocation, if possible, or as soon thereafter as practical. The resident's file must include documentation showing who was contacted, the method of contact, and the date and time of the contact. Written notice must be given to the resident the next business day.

The bill defines the terms "relocation" and "termination of residency." Relocation means "to move a resident from the facility to another facility that is responsible for the resident's care." Termination of residency means "to release a resident from the facility and the releasing facility ceases to be responsible for the resident's care."

The bill also grants rulemaking authority to DCF to administer this section.

Finally, the bill amends s. 429.28, F.S., to include reference to a resident's right to challenge the notice of relocation or termination of residency in the resident's bill of rights.

**ALF Administrator Licensure (sections 12 and 13)**

This bill requires every ALF in the state to be under the management of an assisted living facility administrator (administrator) who holds a valid license or provisional license. To be eligible to be an administrator, an applicant must:

- Be at least 21 years old;
- Have a 4-year baccalaureate degree that includes some coursework in health care, gerontology, or geriatrics; have a 4-year baccalaureate degree and provided at least two years of direct care in an ALF or nursing home; or have a 2-year associate degree and provided at least two years of direct care in an ALF or nursing home;
- Complete all required training and pass all required competency tests with a minimum score of 80;
- Complete background screening; and
- Otherwise meet the requirements of part I of ch. 429, F.S.

An administrator who has been employed continuously for at least the two years immediately before July 1, 2012, does not have to meet the educational, core training, and competency test requirements as long as the administrator submits proof to the Agency for Health Care Administration (AHCA or agency) of compliance with continuing education requirements and the administrator has not been an administrator of a facility that was cited for a class I or class II violation within the previous two years. Additionally, an administrator who is licensed in accordance with part II of ch. 468, F.S., is exempt from the educational and core training requirements. However, these administrators must still complete the mental health training and pass the associated competency test if the administrator is employed at an LMH facility, and the administrator must complete supplemental training required in s. 429.521(2)(b), F.S.,<sup>50</sup> prior to licensure.

The bill provides that AHCA shall establish licensure fees, which shall be renewed biennially and may not exceed \$250 for the initial licensure or \$250 for each licensure renewal.

The bill creates s. 429.512, F.S., providing provisional licensure and inactive status requirements. A provisional license may only be issued to fill a position that unexpectedly becomes vacant and may be issued to a person who does not meet all of the licensure requirements established in s. 429.50, F.S. A provisional license is only good for one period, which may not exceed six months. The agency may set an application fee for a provisional license which may not exceed \$500.

An administrator's license becomes inactive if the administrator does not complete the required number of continuing education courses and pass the corresponding tests, or if the administrator does not timely pay the licensure renewal fee. An administrator may also apply for inactive status. The agency may not reactivate a license unless the inactive or delinquent licensee has paid all applicable fees. The agency shall establish by rule all required fees.

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<sup>50</sup> Section 429.521, F.S., is created in this bill and relates to training requirements. See "Training Requirements" in the Effect of Proposed Changes section of this analysis.

## **Training Requirements (sections 5, 11, and 14)**

### *Generally*

The bill requires each employee and administrator of an ALF who is newly hired on or after July 1, 2012, to attend a preservice orientation which covers topics that enable an employee to relate and respond to the population of that facility. The orientation must be at least two hours and, at a minimum, cover the following topics:

- Care of persons who have Alzheimer's disease;
- Deescalation techniques;
- Elopement prevention; and
- Behavior management.

Upon completion of the orientation, the employee shall sign an affidavit, under penalty of perjury, stating that he or she has completed the orientation. This affidavit must be placed in the employee's work file.

The bill creates s. 429.521, F.S., to provide training requirements for administrators, applicants to become an ALF administrator (applicants), and staff members of an ALF. The Department of Elder Affairs (DOEA or department) is charged with the responsibility to establish a standardized core training curriculum for applicants and for staff members who provide regular or direct care to residents. The curricula must be offered in English and Spanish, reviewed annually, and updated as needed to reflect changes in the law, rules, and best practices.

The curriculum for applicants must cover, at a minimum, the following topics:

- State law and rules relating to ALFs.
- Resident's rights and procedures for identifying and reporting abuse, neglect, and exploitation.
- Special needs of elderly persons, persons who have mental illness, and persons who have developmental disabilities.
- Nutrition and food service.
- Medication management, recordkeeping, and proper techniques for assisting residents who self-administer medication.
- Firesafety requirements.
- Care of persons who have Alzheimer's disease and related disorders.
- Elopement prevention.
- Aggression and behavior management, de-escalation techniques, and Baker Act protocols and procedures.
- Do not resuscitate orders.
- Infection control.
- Admission, continuing residency, and best practices in the industry.
- Phases of care and interacting with residents.

The department must also develop a supplemental course consisting of topics related to extended

congregate care, limited mental health, and business operations, which must be completed by an applicant.

The curriculum for staff members who provide regular or direct care to residents must cover, at a minimum, the following topics:

- The reporting of major incidents.
- The reporting of adverse incidents.
- Emergency procedures.
- Residents' rights.
- The recognition and reporting of resident abuse, neglect, and exploitation.
- Resident behavior and needs.
- Assistance with the activities of daily living.
- Infection control.
- Aggression and behavior management and deescalation techniques.

The department must create two competency tests, one for applicants and one for staff members, which tests the individual's comprehension of the required training. These tests must be offered in English and Spanish, reviewed annually, and updated as needed to reflect changes in the law, rules, and best practices. The tests may be made available through testing centers.

The department must establish a five-member panel of mental health professionals to develop a comprehensive, standardized training curriculum and competency test for administrators and certain staff members of an LMH facility. This test must be offered in English and Spanish, reviewed annually, and updated as needed to reflect changes in the law, rules, and best practices. The test may be made available online or through testing centers.

The bill defines "mental health professional" in s. 429.02, F.S., to mean an individual licensed under chs. 458, 459, 464, 490, or 491, F.S.,<sup>51</sup> who provides mental health services as defined under s. 394.67, F.S.,<sup>52</sup> or an individual who has at least five years of experience providing services that improve an individual's mental health or treat mental illness.

Finally, the department must establish curricula for continuing education (CE) for administrators and staff members. The CE must include topics similar to that of the core training required for staff members and applicants. At a minimum, CE must cover:

- Elopement prevention;
- Deescalation techniques; and
- Phases of care and interacting with residents.

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<sup>51</sup> Chapter 458, F.S., is the regulation of the medical practice. Chapter 459, F.S., is the regulation of osteopathic medicine. Chapter 464, F.S., is the regulation of nursing. Chapter 490, F.S., is the regulation of psychological services. Chapter 491, F.S., is the regulation of psychotherapy services.

<sup>52</sup> Mental health services is defined as "therapeutic interventions and activities that help to eliminate, reduce, or manage symptoms or distress for persons who have severe emotional distress or a mental illness and to effectively manage the disability that often accompanies a mental illness so that the person can recover from the mental illness, become appropriately self-sufficient for his or her age, and live in a stable family or in the community." Section 394.67(15), F.S.

The department must ensure that all CE curricula include a test upon completion of the training which demonstrates comprehension of the training. The training and test must be offered in English and Spanish, reviewed annually, and updated as needed to reflect changes in the law, rules, and best practices. The CE and test may be offered through online courses and any fees associated to the online service are borne by the participant.

#### *Applicants and Administrators*

An applicant for licensure as an assisted living facility administrator (applicant) must complete a minimum of 40 hours of core training. In addition to the 40 hours, each applicant must complete at least 10 hours of supplemental training related to extended congregate care, limited mental health, and business operations, including, but not limited to, human resources, financial management, and supervision of staff. Upon completion of the training, an applicant must pass a competency test with a minimum score of 80.

If the applicant fails a competency test, the individual must wait 10 days before retaking it. If the applicant fails a competency test three times, the individual must retake the applicable training before retaking the test.

A licensed administrator must take at least one hour of inservice training regarding the facility's policies regarding resident elopement response within 30 days after employment at the facility. Additionally, each administrator of an LMH facility must complete a minimum of eight hours of mental health training and pass a competency test related to the training within 30 days after employment at the facility. A minimum score of 80 is required to show successful pass of the mental health competency test. If an administrator does not pass the mental health competency test within six months after completing the training, the administrator is ineligible to be an administrator at an LMH facility until the individual passes the test.

An administrator of an ECC facility must complete six hours of ECC training within 30 days after employment, and an administrator of an LNS facility must complete four hours of training related to special needs and care of those persons who require limited nursing services within 30 days after employment.

An administrator must participate in continuing education (CE) for a minimum of 18 contact hours every two years and pass the corresponding test upon completion of the CE course with a minimum score of 80. The administrator must take the CE and pass any corresponding tests before license renewal.

#### *Staff Training*

Each staff member hired on or after July 1, 2012, who provides regular or direct care to residents, must complete a minimum of 20 hours of core training within 90 days after employment. The department may exempt certain persons who can demonstrate completion of training substantially similar to the core training. Upon completion of the training, the staff member must pass a competency test with a minimum score of 70. If a staff member fails the competency test, the individual must wait 10 days before retaking the test. If a staff member fails

the test three times, the individual must retake the initial core training before retaking the test. If a staff member does not pass the test within one year after employment, the individual may not provide regular or direct care to residents until the individual successfully passes the test.

Additionally, each staff member of an LMH facility who provides regular or direct care to residents must complete a minimum of eight hours of mental health training and pass a competency test related to the training within 30 days after employment at the facility. A minimum score of 70 is required to show successful pass of the mental health competency test. If a staff member does not pass the mental health competency test, the staff member is ineligible to provide regular or direct care to residents until the individual passes the test.

Each staff member of an ALF must receive at least one hour of inservice training regarding the facility's policies related to resident elopement response within 30 days after employment at the facility. A staff member who prepares or serves food must receive a minimum of one hour of inservice training in safe food handling practices within 30 days after employment. Additionally, a staff member who manages medications and assists with the self-administration of medications must complete four additional hours of training provided by a registered nurse, licensed pharmacist, or department staff within 30 days after employment.

Finally, each staff member who provides regular or direct care to residents must participate in continuing education for a minimum of 10 contact hours every two years and pass the corresponding test upon completion of the CE course with a minimum score of 70. If an individual does not complete all required CE and pass the corresponding tests, the individual may not provide regular or direct care to residents until the individual does so.

### **Core Training Certification (section 15)**

Section 429.522, F.S., is created to provide a certification process for individuals wishing to become a core trainer. The Department of Elder Affairs (DOEA or department) is directed to approve and provide oversight for one or more third-party credentialing entities<sup>53</sup> for the purpose of developing and administering core trainer certification programs for persons providing training to applicants for licensure of an ALF and to staff members of an ALF. In order to obtain approval from DOEA, the third-party credentialing entity shall:

- Establish professional requirements and standards. At a minimum a core trainer applicant must meet one of the following requirements:
  - Provide proof of completion of a 4-year baccalaureate degree from an accredited college or university and have worked in a management position in an ALF for at least three years;
  - Have worked in a management position in an ALF for at least five years and have at least one year of teaching experience as an educator or staff trainer for persons working in an ALF or other long-term care setting;
  - Have been previously certified as a core trainer for DOEA;
  - Have a minimum of five years of employment with AHCA as a surveyor of

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<sup>53</sup> The bill defines a third-party credentialing entity as a “department-approved nonprofit organization that has met nationally recognized standards for developing and administering professional certification programs.”

- ALFs;
  - Have a minimum of five years of employment in a professional position in AHCA’s assisted living unit;
  - Have a minimum of five years of employment as an educator or staff trainer for persons working in an ALF or other long-term care setting;
  - Have a minimum of five years of employment as a core trainer for an ALF, which employment was not directly associated with DOEA; or
  - Have a minimum of a 4-year baccalaureate degree from an accredited college or university in the areas of health care, gerontology, social work, education, or human services, and a minimum of four years of experience as an educator or staff trainer for persons working in an ALF or other long-term care setting.
- Apply core competencies according to DOEA’s standards;
- Maintain a professional code of ethics and establish a disciplinary process and a decertification process;
- Maintain a database, accessible to the public, of all persons who have core trainer certification, including any history of violations;
- Require annual continuing education for trainers; and
- Administer a continuing education provider program to ensure that only qualified providers offer CE opportunities for certificateholders.

Minimum requirements for an individual seeking core trainer certification<sup>54</sup> are:

- Completion of the minimum core training requirements for an applicant for licensure as an ALF administrator and successful passage of the corresponding competency tests with a minimum score of 80;
- Compliance with the continuing education requirements for administrators of an ALF; and
- Compliance with the professional requirements and standards set forth above.

### **Electronic Monitoring (sections 9 and 16)**

This bill provides that a resident has the right to have an electronic monitoring device that is owned and operated by the resident or provided by the resident’s guardian or legal representative in the resident’s room.

The bill creates s. 429.55, F.S., and provides the following definitions:

- “Authorized electronic monitoring” means the placement of an electronic monitoring device in the room of a resident of an ALF and the making of tapes or recordings through the use of the device after making a request to the facility and obtaining all necessary consent to allow electronic monitoring.
- “Electronic monitoring device” means video surveillance cameras or audio devices installed in the room of a resident which are designed to acquire communications or other

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<sup>54</sup> The bill defines core trainer certification as “a professional credential awarded to individuals demonstrating core competency in the assisted living facility practice area by a department-approved third-party credentialing entity.” The bill also defines “core competency” and “core curriculum.”

sounds occurring in the room.

- “Covert use of electronic monitoring device” means the placement and use of the electronic monitoring device is not open and obvious, and the facility and AHCA are not informed about the device. The agency and the facility are not civilly liable in connection with the covert placement or use of an electronic monitoring device.

Upon admission to an ALF, a resident must sign a form that states:

- That a person who places an electronic monitoring device in the room of a resident or uses or discloses a tape or other recording made by the device may be civilly liable for any unlawful violation of the privacy rights of another;
- That a person who covertly places an electronic monitoring device in the room of a resident or who consents to or acquiesces in the covert placement of the device has waived any privacy right the person may have in connection with images or sounds that may be acquired by the device;
- That a resident is entitled to conduct authorized electronic monitoring and that the resident should contact AHCA if the facility refuses to allow electronic monitoring;
- The basic procedures that must be followed in order to request authorized electronic monitoring;
- That the electronic monitoring device and all installation and maintenance costs must be paid for by the resident;
- The legal requirement to report abuse or neglect when electronic monitoring is being conducted; and
- Any other pertinent information.

Only a resident may request authorized electronic monitoring, unless the resident does not have capacity, in which case the resident’s guardian or legal representative may request it. The agency shall prescribe a form for a resident to request authorized electronic monitoring, which must require the resident to:

- Release the facility from any civil liability for a violation of the resident’s privacy rights in connection with the use of the electronic monitoring device;
- If the electronic monitoring device is a video surveillance camera, choose whether the camera will always be unobstructed or not;
- Obtain consent of the other residents in the room.

Consent can only be given by the other resident in the room, or the resident’s guardian or legal representative, and it must require the other resident to release the facility from any civil liability for a violation of the resident’s privacy rights in connection with the use of the electronic monitoring device. The other resident may provide certain conditions upon issuing consent.

If authorized electronic monitoring is being conducted in the room of a resident and another resident is moved into the room who has not yet consented, authorized electronic monitoring must cease until the new resident has consented.

A resident who conducts authorized electronic monitoring must post and maintain a conspicuous

notice at the entrance of the resident's room which states that the room is being monitored by an electronic monitoring device. Additionally, each facility must post a notice at the entrance to the facility stating that the rooms of some residents may be monitored electronically. A facility may not refuse to admit an individual to residency in the facility and may not remove a resident from the facility because of a request to conduct authorized electronic monitoring. The facility must also make reasonable physical accommodations for authorized electronic monitoring. The facility may require that the device be installed in a manner that is safe and that the electronic monitoring be conducted in plain view. A facility may place a resident in a different room to accommodate a request to conduct authorized electronic monitoring.

The bill creates a mandatory reporting requirement on anyone who views or listens to a tape or recording by an electronic monitoring device that acquired an incident of abuse or neglect.

The bill provides requirements for use of the tape or recording in a court of law, enforcement provisions, and rulemaking authority to AHCA.

**Other (sections 7, 8, and 17)**

The bill amends ss. 429.176 and 429.178, F.S., to conform to other changes made by the bill.

The bill provides an effective date of July 1, 2012.

**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 federal right to privacy extends to fundamental interests such as marriage, procreation, contraception, family relationships, and the rearing and educating of children.<sup>55</sup> The Supreme Court has held that a right to privacy shall be upheld unless the government's policy meets the strict scrutiny test, meaning that the government's action may only be justified by a compelling state interest which is narrowly tailored to carry out the legitimate state interest at stake.

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<sup>55</sup> *City of North Miami v. Kurtz*, 653 So. 2d 1025, 1027 (Fla. 1995).

Florida's constitutional privacy clause, pursuant to article I, section 23 of the Florida Constitution, provides greater protection than the federal constitution. The Florida Supreme Court has stated that if an individual makes a constitutional challenge under the privacy clause, the individual must first establish that there was government action and that the individual has a "legitimate expectation of privacy."<sup>56</sup> If a legitimate expectation of privacy exists then the state must demonstrate not only a compelling interest for intruding on one's privacy, but also that the least intrusive means were used in accomplishing its goal.<sup>57</sup>

This proposed committee bill may implicate the right to privacy as constitutionally protected under s. 23 of article I of the Florida Constitution. This bill provides that a resident has the right to have an electronic monitoring device that is owned and operated by the resident or provided by the resident's guardian or legal representative in the resident's room. Looking at the constitutionality of "granny cams" within the context of nursing homes, Florida law explicitly protects the privacy of nursing home residents.<sup>58</sup> Additionally, Florida courts have acknowledged privacy rights afforded to dwellers of semi-permanent residences, such as nursing homes and motels, compared to the privacy of those in public places, such as emergency rooms.<sup>59</sup> Since Florida courts have upheld a resident's privacy rights within the context of a nursing home, there is an argument that the courts would also uphold the privacy rights of a resident in an assisted living facility.

The privacy analysis is further affected by the party involved. For example, nursing home employees and residents, as compared to visitors, may be afforded a larger zone of acceptable invasion of privacy.<sup>60</sup> Residents have an expectation of privacy in certain areas of the facility. However, a resident may choose to waive his or her privacy rights. Also, in Florida, the right to privacy is considered to be retained by a person who has been adjudicated as incompetent.<sup>61</sup> However, Florida law authorizes a guardian to make decisions regarding the person's residential environment. "As the decision to impose video surveillance implicates both of these rules, the courts might ultimately be left with the decision as to whether a legal guardian may waive the privacy rights of her charge in this context."<sup>62</sup>

The same analysis that applies to residents would apply to the privacy rights of roommates. A resident seeking to monitor a shared room would therefore be required to obtain written consent from the roommate.<sup>63</sup> In the case of visitors to the facility, providing visitors with notice that the facility is monitored by video cameras may negate any reasonable expectation of privacy. Courts have repeatedly held that where notice of video surveillance is clearly displayed in a public place, a person cannot expect privacy.<sup>64</sup>

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<sup>56</sup> *Id.* at 1028.

<sup>57</sup> *Winfield v. Division of Pari-Mutuel Wagering, Dept. of Business Regulation*, 477 So. 2d 544, 547 (Fla. 1985).

<sup>58</sup> Section 400.022(1)(n), F.S.

<sup>59</sup> Elizabeth Adelman, *Video Surveillance in Nursing Homes*, 12 ALB. L.J. SCI. & TECH. 821, 827 (2002).

<sup>60</sup> *Id.* at 828.

<sup>61</sup> Tracey Kohl, *Watching Out for Grandma: Video Cameras in Nursing Homes May Help to Eliminate Abuse*, 30 FORDHAM URB. L.J. 2083, 2096 (Sept. 2003).

<sup>62</sup> *Id.*

<sup>63</sup> *Id.* at 2097.

<sup>64</sup> *Id.* at 2100.

This bill complies with the requirements stated above. It requires a resident to waive his or her privacy rights in order to conduct authorized electronic monitoring in the resident's room. If the resident is in a shared room, the other resident in the room must also provide consent prior to allowing authorized electronic monitoring. Additionally, the assisted living facility must post a notice at the entrance to the facility stating that some of the rooms may be monitored electronically, and a resident conducting authorized electronic monitoring must post and maintain a conspicuous notice at the entrance of the resident's room which states that the room is being monitored by an electronic monitoring device.

Although the use of electronic monitoring has not been widely used in assisted living facilities, a few states across the nation have authorized it in nursing home settings. The first state to enact a law directly addressing the use of "granny cams" was Texas in 2001. It does not appear that Texas' law has been challenged as unconstitutionally intruding on a person's right to privacy. The language in this bill relating to the use of authorized electronic monitoring was modeled after the Texas law. Although this bill implicates the right to privacy, the bill may pass constitutional muster.

## **V. Fiscal Impact Statement:**

### **A. Tax/Fee Issues:**

None.

### **B. Private Sector Impact:**

Applicants for licensure to be an assisted living facility administrator, administrators, and certain staff members of an ALF may incur costs to take the required training, continuing education, and tests required in this bill. However, the exact fiscal impact is unknown at this time.

### **C. Government Sector Impact.<sup>65</sup>**

The Agency for Health Care Administration and the Department of Elder Affairs may incur an indeterminate amount of costs associated with the additional rulemaking and oversight responsibilities provided for in the bill. However, the exact fiscal impact is unknown at this time.

Additionally, the Office of Appeals Hearings of the Department of Children and Family Services may incur additional workload associated with challenges to a facility's proposed relocation or termination of residency.

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<sup>65</sup> As of the time this analysis was published, Senate professional staff did not have analyses for SPB 7176 from AHCA, DOEA or DCF. Senate professional staff has requested analyses from the agency and departments and has a meeting scheduled with AHCA to discuss the bill. Senate professional staff will update this bill analysis with fiscal information as it is received.

**VI. Technical Deficiencies:**

Lines 468-471 of the bill provide that each administrator and staff member of an LMH facility must meet the limited mental health training requirements in the bill. This language makes the limited mental health training a requirement for every staff member of the facility. The intent of the bill is not to require every staff member to complete the mental health training, rather only those staff members who provide regular or direct care to residents. The Legislature may wish to amend the bill to clarify this intent.

On line 765 and 766, the bill may need to be amended to provide that upon completion of the preservice orientation, the *administrator and* employee shall sign an affidavit stating that he or she completed the orientation.

The Legislature may wish to amend lines 895-898 to include language stating that “an administrator who is licensed in accordance with part II of chapter 468 is eligible for licensure without meeting the educational requirements of this section and without completing the core training and passing the competency test required in s. 429.521(2).” This section should mirror the grandfather provision for administrators who have been employed continuously for at least two years immediately before July 1, 2012. A technical change may need to be made on lines 881-882 in order to make the two provisions match.

**VII. Related Issues:**

The proposed committee bill provides a resident the right to a hearing to challenge a facility’s proposed relocation or termination of residency. The hearing is conducted by the Office of Appeals of the Department of Children and Family Services and the burden of proof is by the preponderance of the evidence. Section 429.28, F.S., provides the resident bill of rights, which gives rights to the resident. If a facility violates any of the rights contained in the bill of rights, the resident would have a legal right to go to a court of competent jurisdiction to seek redress. The resident bill of rights does not include the right to not be relocated to another facility or to have residency terminated. Therefore, it is unclear what legal ground a resident has to challenge a facility’s proposed relocation or termination of residency.

**VIII. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

**FOR CONSIDERATION** By the Committee on Children, Families, and Elder Affairs

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1 A bill to be entitled  
 2 An act relating to assisted living facilities;  
 3 amending s. 394.4574, F.S.; requiring that the case  
 4 manager assigned to a mental health resident of an  
 5 assisted living facility that holds a limited mental  
 6 health license keep a record of the date and time of  
 7 face-to-face interactions with the mental health  
 8 resident and make the record available to the  
 9 Department of Children and Family Services for  
 10 inspection; requiring that the record be maintained  
 11 for a specified number of years; requiring that the  
 12 department ensure that there is adequate and  
 13 consistent monitoring and enforcement of community  
 14 living support plans and cooperative agreements;  
 15 amending s. 400.0078, F.S.; requiring that, upon  
 16 admission to a long-term care facility, a resident or  
 17 his or her representative receive information  
 18 regarding the confidentiality of any complainant's  
 19 identity and the subject matter of the complaint;  
 20 amending s. 415.103, F.S.; requiring that the  
 21 department maintain a central abuse hotline that  
 22 receives all reports made regarding incidents of abuse  
 23 or neglect which are recorded by an electronic  
 24 monitoring device in a resident's room of an assisted  
 25 living facility; amending s. 415.1034, F.S.; requiring  
 26 that certain employees or agent of any state or local  
 27 agency report the abuse, neglect, or exploitation of a  
 28 vulnerable adult to the central abuse hotline;  
 29 amending s. 429.02, F.S.; defining the term "mental

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30 health professional" as it relates to the Assisted  
 31 Living Facilities Act; amending s. 429.075, F.S.;  
 32 requiring that an assisted living facility that serves  
 33 any mental health resident obtain a limited mental  
 34 health license; revising the training requirements for  
 35 administrators and staff members of a facility that is  
 36 licensed to provide services to mental health  
 37 residents; amending ss. 429.176 and 429.178, F.S.;  
 38 conforming cross-references; amending s. 429.28, F.S.;  
 39 revising the bill of rights for residents of assisted  
 40 living facilities with regard to notice of relocation  
 41 or termination of residency and placement of an  
 42 electronic monitoring device in the resident's room;  
 43 revising requirements for a written notice of the  
 44 rights, obligations, and prohibitions which is  
 45 provided to a resident of an assisted living facility;  
 46 creating s. 429.281, F.S.; providing definitions;  
 47 requiring that an assisted living facility comply with  
 48 notice of relocation or termination of residency from  
 49 the facility when a decision is made to relocate or  
 50 terminate the residency of a resident; providing  
 51 requirements and procedures for notice and a hearing  
 52 with regard to relocation of a resident or termination  
 53 of the residency of a resident; requiring that the  
 54 Department of Children and Family Services adopt  
 55 rules; providing for application; amending s. 429.52,  
 56 F.S.; requiring that a newly hired employee or  
 57 administrator of an assisted living facility attend a  
 58 preservice orientation provided by the assisted living

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59 facility; providing topics that must be covered in the  
 60 preservice orientation; requiring that the employee  
 61 sign an affidavit upon completion of the preservice  
 62 orientation; requiring that the administrator of the  
 63 assisted living facility maintain the signed affidavit  
 64 in each employee's work file; deleting provisions  
 65 regarding minimum training and core educational  
 66 requirements for administrators and other staff;  
 67 deleting provisions requiring the Department of  
 68 Elderly Affairs to establish training requirements and  
 69 a competency test by rule; deleting provisions  
 70 governing the registration of persons providing  
 71 training; creating s. 429.50, F.S.; prohibiting an  
 72 assisted living facility from operating unless it is  
 73 under the management of an administrator who holds a  
 74 valid license or provisional license; providing  
 75 eligibility requirements to be licensed as an assisted  
 76 living facility administrator; providing an exception  
 77 from the requirement to complete the educational  
 78 requirements and pass a competency test; providing  
 79 additional requirements for licensure as an  
 80 administrator of an assisted living facility that has  
 81 a mental health license; providing that an  
 82 administrator licensed under part II of ch. 468, F.S.,  
 83 is exempt from certain educational and core training  
 84 requirements; providing additional licensure  
 85 requirements for an administrator licensed under part  
 86 II of ch. 468, F.S., who is employed at an assisted  
 87 living facility that has a mental health license;

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88 providing that other licensed professionals may be  
 89 exempted, as determined by rule by the Agency for  
 90 Health Care Administration; requiring that the agency  
 91 issue a license to an applicant who successfully  
 92 completes the training, passes the competency tests,  
 93 and provides proof of the required education;  
 94 requiring that the agency establish licensure fees for  
 95 licensure as an assisted living facility  
 96 administrator; creating s. 429.512, F.S.; authorizing  
 97 the agency to establish requirements for issuing a  
 98 provisional license; providing the conditions under  
 99 which a provisional license is issued; authorizing the  
 100 agency to set an application fee; providing conditions  
 101 under which an administrator's license becomes  
 102 inactive; requiring that the agency adopt rules  
 103 governing application procedures for inactive  
 104 licenses, the renewal of inactive licenses, and the  
 105 reactivation of licenses; requiring that the agency  
 106 establish application fees for inactive license  
 107 status, a renewal fee for inactive license status, a  
 108 delinquency fee, and a fee for the reactivation of a  
 109 license; prohibiting the agency from reactivating a  
 110 license unless the licensee pays the required fees;  
 111 creating s. 429.521, F.S.; requiring that each  
 112 administrator, applicant to become an assisted living  
 113 facility administrator, and staff member of an  
 114 assisted living facility meet minimum training  
 115 requirements established by the Department of Elderly  
 116 Affairs; requiring that the department, in conjunction

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117 with the Department of Children and Family Services  
 118 and stakeholders, establish a standardized core  
 119 training curriculum to be completed by an applicant  
 120 for licensure as an assisted living facility  
 121 administrator; providing minimum requirements for the  
 122 training curriculum; requiring that the department, in  
 123 conjunction with the Department of Children and Family  
 124 Services and stakeholders, develop a supplemental  
 125 course consisting of topics related to extended  
 126 congregate care, limited mental health, and business  
 127 operations; requiring that the department, in  
 128 conjunction with the Department of Children and Family  
 129 Services and stakeholders, establish a standardized  
 130 core training curriculum for staff members who provide  
 131 regular or direct care to residents of an assisted  
 132 living facility; providing requirements for the  
 133 training curriculum; requiring that the department, in  
 134 conjunction with the agency and stakeholders, create  
 135 competency tests to test an individual's comprehension  
 136 of the training; providing requirements for the  
 137 competency tests; requiring that the department  
 138 establish a panel of mental health professionals to  
 139 develop a comprehensive, standardized training  
 140 curriculum and competency tests to satisfy the  
 141 requirements for mental health training; requiring  
 142 that the Department of Elderly Affairs, in conjunction  
 143 with the Department of Children and Family Services  
 144 and stakeholders, establish curricula for continuing  
 145 education for administrators and staff members of an

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146 assisted living facility; providing minimum  
 147 requirements for the required continuing education;  
 148 requiring that the Department of Elderly Affairs  
 149 ensure that all continuing education curricula include  
 150 a test upon completion of the training which  
 151 demonstrates comprehension of the training; requiring  
 152 the department to adopt rules; requiring that an  
 153 applicant for licensure as an assisted living facility  
 154 administrator complete a minimum number of hours of  
 155 training and take a competency test; providing a  
 156 minimum passing score for the competency test;  
 157 providing requirements for an applicant who fails the  
 158 competency test; requiring that a licensed  
 159 administrator receive inservice training regarding the  
 160 facility's policies and procedures related to resident  
 161 elopement response; requiring that a licensed  
 162 administrator of an assisted living facility that has  
 163 a limited mental health license complete a minimum  
 164 number of hours of mental health training and pass a  
 165 competency test related to the training; requiring  
 166 that a licensed administrator of an assisted living  
 167 facility that has an extended congregate care license  
 168 complete a minimum number of hours of extended  
 169 congregate care training; requiring that a licensed  
 170 administrator of an assisted living facility that has  
 171 a limited nursing services license complete a minimum  
 172 number of hours of training related to the special  
 173 needs and care of those persons who require limited  
 174 nursing services; requiring that a licensed

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175 administrator participate in continuing education for  
 176 a minimum number of contact hours and pass the  
 177 corresponding test upon completion of the continuing  
 178 education course; requiring that a staff member of an  
 179 assisted living facility receive inservice training  
 180 regarding the facility's policies and procedures  
 181 related to resident elopement response; requiring that  
 182 certain staff members of an assisted living facility  
 183 complete a minimum number of hours of core training;  
 184 providing for exemptions; requiring that certain staff  
 185 members of an assisted living facility take a  
 186 competency test that assesses the staff member's  
 187 knowledge and comprehension of the required core  
 188 training; providing a minimum passing score for the  
 189 competency test; providing requirements for a staff  
 190 member who fails the competency test; requiring that a  
 191 staff member who provides regular or direct care to  
 192 residents of an assisted living facility that has a  
 193 limited mental health license complete a minimum  
 194 number of hours of mental health training and take a  
 195 competency test; providing a minimum passing score;  
 196 prohibiting a staff member from providing direct care  
 197 to residents until the staff member passes the  
 198 competency test; requiring that a staff member of an  
 199 assisted living facility who prepares or serves food  
 200 receive inservice training in safe food handling  
 201 practices; requiring that a staff member of an  
 202 assisted living facility who manages medications and  
 203 assists with the self-administration of medications

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204 complete training provided by a registered nurse,  
 205 licensed pharmacist, or department staff; requiring  
 206 that the Department of Elderly Affairs establish  
 207 requirements for the training; requiring that other  
 208 staff members of an assisted living facility  
 209 participate in training relevant to their job duties  
 210 as specified by rule of the department; authorizing  
 211 the department or the Agency for Health Care  
 212 Administration to provide additional training if  
 213 necessary; requiring that staff members who provide  
 214 regular or direct care to residents of an assisted  
 215 living facility participate in continuing education  
 216 and pass the corresponding test upon completion of the  
 217 continuing education course; prohibiting a staff  
 218 member from providing regular or direct care to  
 219 residents under certain conditions; creating s.  
 220 429.522, F.S.; providing definitions; requiring that  
 221 the Department of Elderly Affairs approve and provide  
 222 oversight for third-party credentialing entities for  
 223 the purpose of developing and administering core  
 224 trainer certification programs for persons providing  
 225 training to applicants for licensure as an assisted  
 226 living facility administrator and as a staff member of  
 227 an assisted living facility; requiring that a third-  
 228 party credentialing entity meet certain requirements  
 229 in order to obtain approval for developing and  
 230 administering the core trainer certification programs;  
 231 requiring that an individual seeking core trainer  
 232 certification provide a third-party credentialing

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233 entity with proof of certain requirements; requiring  
234 that the department adopt rules; creating s. 429.55,  
235 F.S.; providing definitions; defining when an  
236 electronic monitoring device that is placed in the  
237 room of a resident of an assisted living facility is  
238 considered to be covert; providing that the Agency for  
239 Health Care Administration and the facility are not  
240 civilly liable in connection with the covert placement  
241 or use of an electronic monitoring device in the room  
242 of the resident; requiring that the agency prescribe  
243 by rule a form that must be completed and signed when  
244 a resident is admitted to a facility; providing  
245 requirements for the form; authorizing certain persons  
246 to request electronic monitoring; providing for the  
247 form prescribed by the agency to require that the  
248 resident release the facility from any civil liability  
249 for a violation of the resident's privacy rights in  
250 connection with the use of the electronic monitoring  
251 device, choose whether the camera will be  
252 unobstructed, and obtain the consent of the other  
253 residents in the room if the resident resides in a  
254 multiperson room; requiring prior consent under  
255 certain circumstances; requiring that the agency adopt  
256 rules; requiring that the facility allow a resident or  
257 the resident's guardian or legal representative to  
258 monitor the room of the resident through the use of  
259 electronic monitoring devices; requiring that the  
260 facility require a resident who conducts authorized  
261 electronic monitoring to post a conspicuous notice at

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262 the entrance of the resident's room; providing that  
263 electronic monitoring of the room of a resident is not  
264 compulsory; prohibiting a facility from refusing to  
265 admit an individual to residency in the facility or  
266 from removing a resident from the facility because of  
267 a request to conduct authorized electronic monitoring;  
268 requiring that a facility make reasonable physical  
269 accommodations for authorized electronic monitoring;  
270 authorizing a facility to require that an electronic  
271 monitoring device be installed in a manner that is  
272 safe; authorizing a facility to require that a  
273 resident conduct electronic monitoring in plain view;  
274 authorizing a facility to place a resident in a  
275 different room in order to accommodate a request to  
276 conduct authorized electronic monitoring; requiring  
277 that a person report abuse or neglect to the central  
278 abuse hotline of the Department of Children and Family  
279 Services based on the person's viewing of or listening  
280 to a tape or recording; providing requirements for  
281 reporting the abuse or neglect; providing that a tape  
282 or recording created through the use of covert or  
283 authorized electronic monitoring may be admitted into  
284 evidence in a civil or criminal court action or  
285 administrative proceeding; providing requirements for  
286 such admission; requiring that each facility post a  
287 notice at the entrance to the facility stating that  
288 the rooms of some residents are monitored  
289 electronically by or on behalf of the residents;  
290 authorizing the Agency for Health Care Administration

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291 to impose administrative sanctions against an  
 292 administrator of an assisted living facility under  
 293 certain circumstances; requiring the agency to adopt  
 294 rules; providing an effective date.

296 Be It Enacted by the Legislature of the State of Florida:

298 Section 1. Subsection (2) of section 394.4574, Florida  
 299 Statutes, is amended to read:

300 394.4574 Department responsibilities for a mental health  
 301 resident who resides in an assisted living facility that holds a  
 302 limited mental health license.—

303 (2) The department must ensure that:

304 (a) A mental health resident has been assessed by a  
 305 psychiatrist, clinical psychologist, clinical social worker, or  
 306 psychiatric nurse, or an individual who is supervised by one of  
 307 these professionals, and determined to be appropriate to reside  
 308 in an assisted living facility. The documentation must be  
 309 provided to the administrator of the facility within 30 days  
 310 after the mental health resident has been admitted to the  
 311 facility. An evaluation completed upon discharge from a state  
 312 mental hospital meets the requirements of this subsection  
 313 related to appropriateness for placement as a mental health  
 314 resident if it was completed within 90 days prior to admission  
 315 to the facility.

316 (b) A cooperative agreement, as required in s. 429.075, is  
 317 developed between the mental health care services provider that  
 318 serves a mental health resident and the administrator of the  
 319 assisted living facility with a limited mental health license in

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320 which the mental health resident is living. Any entity that  
 321 provides Medicaid prepaid health plan services shall ensure the  
 322 appropriate coordination of health care services with an  
 323 assisted living facility in cases where a Medicaid recipient is  
 324 both a member of the entity's prepaid health plan and a resident  
 325 of the assisted living facility. If the entity is at risk for  
 326 Medicaid targeted case management and behavioral health  
 327 services, the entity shall inform the assisted living facility  
 328 of the procedures to follow should an emergent condition arise.

329 (c) The community living support plan, as defined in s.  
 330 429.02, has been prepared by a mental health resident and a  
 331 mental health case manager of that resident in consultation with  
 332 the administrator of the facility or the administrator's  
 333 designee. The plan must be provided to the administrator of the  
 334 assisted living facility with a limited mental health license in  
 335 which the mental health resident lives. The support plan and the  
 336 agreement may be in one document.

337 (d) The assisted living facility with a limited mental  
 338 health license is provided with documentation that the  
 339 individual meets the definition of a mental health resident.

340 (e) The mental health services provider assigns a case  
 341 manager to each mental health resident who lives in an assisted  
 342 living facility with a limited mental health license. The case  
 343 manager is responsible for coordinating the development of and  
 344 implementation of the community living support plan defined in  
 345 s. 429.02. The plan must be updated at least annually in order  
 346 to ensure that the ongoing needs of the resident are addressed.  
 347 Each case manager shall keep a record of the date and time of  
 348 any face-to-face interaction with a mental health resident and

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349 make the record available to the department for inspection. The  
 350 record must be maintained for 2 years following the date of the  
 351 interaction.

352 (f) There is adequate and consistent monitoring and  
 353 enforcement of community living support plans and cooperative  
 354 agreements.

355 Section 2. Subsection (2) of section 400.0078, Florida  
 356 Statutes, is amended to read:

357 400.0078 Citizen access to State Long-Term Care Ombudsman  
 358 Program services.—

359 (2) Every resident or representative of a resident shall  
 360 receive, upon admission to a long-term care facility,  
 361 information regarding the purpose of the State Long-Term Care  
 362 Ombudsman Program, the statewide toll-free telephone number for  
 363 receiving complaints, the confidentiality of a complainant's  
 364 name and identity and of the subject matter of a complaint, and  
 365 other relevant information regarding how to contact the program.  
 366 Residents or their representatives must be furnished additional  
 367 copies of this information upon request.

368 Section 3. Subsection (1) of section 415.103, Florida  
 369 Statutes, is amended to read:

370 415.103 Central abuse hotline.—

371 (1) The department shall establish and maintain a central  
 372 abuse hotline that receives all reports made pursuant to s.  
 373 415.1034 or s. 429.55 in writing or through a single statewide  
 374 toll-free telephone number. Any person may use the statewide  
 375 toll-free telephone number to report known or suspected abuse,  
 376 neglect, or exploitation of a vulnerable adult at any hour of  
 377 the day or night, any day of the week. The central abuse hotline

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378 must be operated in such a manner as to enable the department  
 379 to:

380 (a) Accept reports for investigation when there is a  
 381 reasonable cause to suspect that a vulnerable adult has been or  
 382 is being abused, neglected, or exploited.

383 (b) Determine whether the allegations made by the reporter  
 384 require an immediate, 24-hour, or next-working-day response  
 385 priority.

386 (c) When appropriate, refer calls that do not allege the  
 387 abuse, neglect, or exploitation of a vulnerable adult to other  
 388 organizations that might better resolve the reporter's concerns.

389 (d) Immediately identify and locate prior reports of abuse,  
 390 neglect, or exploitation through the central abuse hotline.

391 (e) Track critical steps in the investigative process to  
 392 ensure compliance with all requirements for all reports.

393 (f) Maintain data to facilitate the production of aggregate  
 394 statistical reports for monitoring patterns of abuse, neglect,  
 395 or exploitation.

396 (g) Serve as a resource for the evaluation, management, and  
 397 planning of preventive and remedial services for vulnerable  
 398 adults who have been subject to abuse, neglect, or exploitation.

399 Section 4. Paragraph (a) of subsection (1) of section  
 400 415.1034, Florida Statutes, is amended to read:

401 415.1034 Mandatory reporting of abuse, neglect, or  
 402 exploitation of vulnerable adults; mandatory reports of death.—

403 (1) MANDATORY REPORTING.—

404 (a) Any person, including, but not limited to, any:

405 1. Physician, osteopathic physician, medical examiner,  
 406 chiropractic physician, nurse, paramedic, emergency medical

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407 technician, or hospital personnel engaged in the admission,  
 408 examination, care, or treatment of vulnerable adults;  
 409 2. Health professional or mental health professional other  
 410 than one listed in subparagraph 1.;  
 411 3. Practitioner who relies solely on spiritual means for  
 412 healing;  
 413 4. Nursing home staff; assisted living facility staff;  
 414 adult day care center staff; adult family-care home staff;  
 415 social worker; or other professional adult care, residential, or  
 416 institutional staff;  
 417 5. State, county, or municipal criminal justice employee or  
 418 law enforcement officer;  
 419 6. An employee of the Department of Business and  
 420 Professional Regulation conducting inspections of public lodging  
 421 establishments under s. 509.032;  
 422 7. Florida advocacy council member or long-term care  
 423 ombudsman council member; ~~or~~  
 424 8. Bank, savings and loan, or credit union officer,  
 425 trustee, or employee; or  
 426 9. Employee or agent of any state or local agency that has  
 427 regulatory responsibilities concerning, or provides services to,  
 428 persons in state-licensed facilities,  
 429  
 430 who knows, or has reasonable cause to suspect, that a vulnerable  
 431 adult has been or is being abused, neglected, or exploited shall  
 432 immediately report such knowledge or suspicion to the central  
 433 abuse hotline.  
 434 Section 5. Present subsections (15) through (26) of section  
 435 429.02, Florida Statutes, are renumbered as subsections (16)

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436 through (27), respectively, and a new subsection (15) is added  
 437 to that section, to read:  
 438 429.02 Definitions.—When used in this part, the term:  
 439 (15) "Mental health professional" means an individual  
 440 licensed under chapter 458, chapter 459, chapter 464, chapter  
 441 490, or chapter 491 who provides mental health services as  
 442 defined under s. 394.67, or an individual who has at least 5  
 443 years of experience providing services that improve an  
 444 individual's mental health or treat mental illness.  
 445 Section 6. Section 429.075, Florida Statutes, is amended to  
 446 read:  
 447 429.075 Limited mental health license.—An assisted living  
 448 facility that serves any three or more mental health resident  
 449 ~~residents~~ must obtain a limited mental health license.  
 450 (1) To obtain a limited mental health license, a facility  
 451 must hold a standard license as an assisted living facility and,  
 452 must not have any current uncorrected deficiencies or  
 453 violations. ~~The, and must ensure that, within 6 months after~~  
 454 ~~receiving a limited mental health license, the facility~~  
 455 ~~administrator and the staff of the facility who are in direct~~  
 456 ~~contact with mental health residents must complete training of~~  
 457 ~~no less than 6 hours related to their duties. Such designation~~  
 458 may be made at the time of initial licensure or relicensure or  
 459 upon request in writing by a licensee under this part and part  
 460 II of chapter 408. Notification of approval or denial of such  
 461 request shall be made in accordance with this part, part II of  
 462 chapter 408, and applicable rules. This training will be  
 463 provided by or approved by the Department of Children and Family  
 464 Services.

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465 (2) ~~A facility~~ Facilities licensed to provide services to  
 466 mental health residents shall provide appropriate supervision  
 467 and staffing to provide for the health, safety, and welfare of  
 468 such residents. Each administrator and staff member of a  
 469 facility licensed to provide services to mental health residents  
 470 must meet the limited mental health training requirements set  
 471 forth in s. 429.521 in addition to any other training or  
 472 education requirements.

473 (3) A facility that has a limited mental health license  
 474 must:

475 (a) Have a copy of each mental health resident's community  
 476 living support plan and the cooperative agreement with the  
 477 mental health care services provider. The support plan and the  
 478 agreement may be combined.

479 (b) Have documentation that is provided by the Department  
 480 of Children and Family Services that each mental health resident  
 481 has been assessed and determined to be able to live in the  
 482 community in an assisted living facility with a limited mental  
 483 health license.

484 (c) Make the community living support plan available for  
 485 inspection by the resident, the resident's legal guardian, the  
 486 resident's health care surrogate, and other individuals who have  
 487 a lawful basis for reviewing this document.

488 (d) Assist the mental health resident in carrying out the  
 489 activities identified in the individual's community living  
 490 support plan.

491 (4) A facility with a limited mental health license may  
 492 enter into a cooperative agreement with a private mental health  
 493 provider. For purposes of the limited mental health license, the

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494 private mental health provider may act as the case manager.

495 Section 7. Section 429.176, Florida Statutes, is amended to  
 496 read:

497 429.176 Notice of change of administrator.—If, during the  
 498 period for which a license is issued, the owner changes  
 499 administrators, the owner must notify the agency of the change  
 500 within 10 days and provide documentation within 90 days that the  
 501 new administrator is licensed under s. 429.50 and has completed  
 502 the applicable core training ~~educational~~ requirements under s.  
 503 429.521(2) ~~s. 429.52~~.

504 Section 8. Subsection (2) of section 429.178, Florida  
 505 Statutes, is amended to read:

506 429.178 Special care for persons with Alzheimer's disease  
 507 or other related disorders.—

508 (2) (a) An individual who is employed by a facility that  
 509 provides special care for residents with Alzheimer's disease or  
 510 other related disorders, and who has regular contact with such  
 511 residents, must complete up to 4 hours of initial dementia-  
 512 specific training developed or approved by the department. The  
 513 training shall be completed within 3 months after beginning  
 514 employment and shall satisfy the core training requirements of  
 515 s. 429.521(3) ~~s. 429.52(2)(g)~~.

516 (b) A direct caregiver who is employed by a facility that  
 517 provides special care for residents with Alzheimer's disease or  
 518 other related disorders, and who provides direct care to such  
 519 residents, must complete the required initial training and 4  
 520 additional hours of training developed or approved by the  
 521 department. The training shall be completed within 9 months  
 522 after beginning employment and shall satisfy the core training

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523 requirements of s. 429.521(3) ~~s. 429.52(2)(g)~~.

524 (c) An individual who is employed by a facility that  
525 provides special care for residents with Alzheimer's disease or  
526 other related disorders, but who only has incidental contact  
527 with such residents, must be given, at a minimum, general  
528 information on interacting with individuals with Alzheimer's  
529 disease or other related disorders, within 3 months after  
530 beginning employment.

531 Section 9. Subsections (1) and (2) of section 429.28,  
532 Florida Statutes, are amended to read:

533 429.28 Resident bill of rights.—

534 (1) A ~~No~~ resident of a facility may not ~~shall~~ be deprived  
535 of any civil or legal rights, benefits, or privileges guaranteed  
536 by law, the Constitution of the State of Florida, or the  
537 Constitution of the United States as a resident of a facility.  
538 Every resident of a facility shall have the right to:

539 (a) Live in a safe and decent living environment, free from  
540 abuse and neglect.

541 (b) Be treated with consideration and respect and with due  
542 recognition of personal dignity, individuality, and the need for  
543 privacy.

544 (c) Retain and use his or her own clothes and other  
545 personal property in his or her immediate living quarters, so as  
546 to maintain individuality and personal dignity, except when the  
547 facility can demonstrate that such would be unsafe, impractical,  
548 or an infringement upon the rights of other residents.

549 (d) Unrestricted private communication, including receiving  
550 and sending unopened correspondence, access to a telephone, and  
551 visiting with any person of his or her choice, at any time

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552 between the hours of 9 a.m. and 9 p.m. at a minimum. Upon  
553 request, the facility shall make provisions to extend visiting  
554 hours for caregivers and out-of-town guests, and in other  
555 similar situations.

556 (e) Freedom to participate in and benefit from community  
557 services and activities and to achieve the highest possible  
558 level of independence, autonomy, and interaction within the  
559 community.

560 (f) Manage his or her financial affairs unless the resident  
561 or, if applicable, the resident's representative, designee,  
562 surrogate, guardian, or attorney in fact authorizes the  
563 administrator of the facility to provide safekeeping for funds  
564 as provided in s. 429.27.

565 (g) Share a room with his or her spouse if both are  
566 residents of the facility.

567 (h) Reasonable opportunity for regular exercise several  
568 times a week and to be outdoors at regular and frequent  
569 intervals except when prevented by inclement weather.

570 (i) Exercise civil and religious liberties, including the  
571 right to independent personal decisions. No religious beliefs or  
572 practices, nor any attendance at religious services, shall be  
573 imposed upon any resident.

574 (j) Access to adequate and appropriate health care  
575 consistent with established and recognized standards within the  
576 community.

577 (k) At least 30 ~~45~~ days' notice of relocation or  
578 termination of residency from the facility unless, for medical  
579 reasons, the resident is certified by a physician to require an  
580 emergency relocation to a facility providing a more skilled

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581 level of care or the resident engages in a pattern of conduct  
 582 that is harmful or offensive to other residents. In the case of  
 583 a resident who has been adjudicated mentally incapacitated, the  
 584 guardian shall be given at least ~~30~~ 45 days' notice of a  
 585 nonemergency relocation or residency termination. Reasons for  
 586 relocation shall be set forth in writing. A resident or the  
 587 resident's legal guardian or representative may challenge the  
 588 notice of relocation or termination of residency from the  
 589 facility pursuant to s. 429.281. ~~In order for a facility to~~  
 590 terminate the residency of an individual without notice as  
 591 provided herein, the facility shall show good cause in a court  
 592 of competent jurisdiction.

593 (1) Present grievances and recommend changes in policies,  
 594 procedures, and services to the staff of the facility, governing  
 595 officials, or any other person without restraint, interference,  
 596 coercion, discrimination, or reprisal. Each facility shall  
 597 establish a grievance procedure to facilitate the residents'  
 598 exercise of this right. This right includes access to ombudsman  
 599 volunteers and advocates and the right to be a member of, to be  
 600 active in, and to associate with advocacy or special interest  
 601 groups.

602 (m) Place in the resident's room an electronic monitoring  
 603 device that is owned and operated by the resident or provided by  
 604 the resident's guardian or legal representative pursuant to s.  
 605 429.55.

606 (2) The administrator of a facility shall ensure that a  
 607 written notice of the rights, obligations, and prohibitions set  
 608 forth in this part is posted in a prominent place in each  
 609 facility and read or explained to residents who cannot read.

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610 This notice shall include the name, address, and telephone  
 611 numbers of the local ombudsman council and central abuse hotline  
 612 and, when applicable, the Advocacy Center for Persons with  
 613 Disabilities, Inc., and the Florida local advocacy council,  
 614 where complaints may be lodged. The notice must state that the  
 615 names or identities of the complainants, or residents involved  
 616 in a complaint, and the subject matter of a complaint made to  
 617 the Office of State Long-Term Care Ombudsman or a local long-  
 618 term care ombudsman council are confidential pursuant to s.  
 619 400.0077. The facility must ensure a resident's access to a  
 620 telephone to call the local ombudsman council, central abuse  
 621 hotline, Advocacy Center for Persons with Disabilities, Inc.,  
 622 and the Florida local advocacy council.

623 Section 10. Section 429.281, Florida Statutes, is created  
 624 to read:

625 429.281 Resident relocation or termination of residency;  
 626 requirements and procedures; hearings.—

627 (1) As used in this section, the term:

628 (a) "Relocation" means to move a resident from the facility  
 629 to another facility that is responsible for the resident's care.

630 (b) "Termination of residency" means to release a resident  
 631 from the facility and the releasing facility ceases to be  
 632 responsible for the resident's care.

633 (2) Each facility licensed under this part must comply with  
 634 s. 429.28(1)(k) when a decision is made to relocate or terminate  
 635 the residency of a resident.

636 (3) At least 30 days before a proposed relocation or  
 637 termination of residency, the facility must provide advance  
 638 notice of the proposed relocation or termination of residency to

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639 the resident and, if known, to a family member or the resident's  
 640 legal guardian or representative. However, in the following  
 641 circumstances the facility shall give notice as soon as is  
 642 practicable before the relocation or termination of residency:

643 (a) The relocation or termination of residency is necessary  
 644 for the resident's welfare or because the resident's needs  
 645 cannot be met in the facility, and the circumstances are  
 646 documented in the resident's record; or

647 (b) The health or safety of other residents or employees of  
 648 the facility would be endangered, and the circumstances are  
 649 documented in the resident's record.

650 (4) The notice required by subsection (3) must be in  
 651 writing and contain all information required by rule. The agency  
 652 shall develop a standard document to be used by all facilities  
 653 licensed under this part for purposes of notifying residents of  
 654 a relocation or termination of residency. This document must  
 655 include information on how a resident may request the local  
 656 long-term care ombudsman council to review the notice and  
 657 request information about or assistance with initiating a  
 658 hearing with the Office of Appeals Hearings of the Department of  
 659 Children and Family Services to challenge the relocation or  
 660 termination of residency. In addition to any other pertinent  
 661 information, the form must require the facility to specify the  
 662 reason that the resident is being relocated or the residency is  
 663 being terminated, along with an explanation to support this  
 664 action. In addition, the form must require the facility to state  
 665 the effective date of the relocation or termination of residency  
 666 and the location to which the resident is being relocated, if  
 667 known. The form must clearly describe the resident's challenge

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668 rights and the procedures for filing a challenge. A copy of the  
 669 notice must be given to the resident, the resident's legal  
 670 guardian or representative, if applicable, and the local long-  
 671 term care ombudsman council within 5 business days after  
 672 signature by the resident or the resident's legal guardian or  
 673 representative, and a copy must be placed in the resident's  
 674 file.

675 (5) A resident is entitled to a hearing to challenge a  
 676 facility's proposed relocation or termination of residency. A  
 677 resident may request that the local long-term care ombudsman  
 678 council review any notice of relocation or termination of  
 679 residency given to the resident. If requested, the local long-  
 680 term care ombudsman council shall assist the resident, or the  
 681 resident's legal guardian or representative, with filing a  
 682 challenge to the proposed relocation or termination of  
 683 residency. The resident, or the resident's legal guardian or  
 684 representative, may request a hearing at any time within 10 days  
 685 after the resident's receipt of the facility's notice of the  
 686 proposed relocation or termination of residency. If a resident,  
 687 or the resident's legal guardian or representative, requests a  
 688 hearing, the request shall stay the proposed relocation or  
 689 termination of residency pending a decision from the hearing  
 690 officer. The facility may not impede the resident's right to  
 691 remain in the facility, and the resident may remain in the  
 692 facility until the outcome of the initial hearing, which must be  
 693 completed within 15 days after receipt of a request for a  
 694 hearing, unless both the facility and the resident, or the  
 695 resident's legal guardian or representative, agree to extend the  
 696 deadline for the decision.

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697 (6) Notwithstanding subsection (5), an emergency relocation  
 698 or termination of residency may be implemented as necessary  
 699 pursuant to state or federal law during the period after the  
 700 notice is given and before the time in which the hearing officer  
 701 renders a decision. Notice of an emergency relocation or  
 702 termination of residency must be made by telephone or in person  
 703 and given to the resident, the resident's legal guardian or  
 704 representative, and the local long-term care ombudsman council,  
 705 if requested. This notice must be given before the relocation,  
 706 if possible, or as soon thereafter as practical. The resident's  
 707 file must contain documentation to show who was contacted,  
 708 whether the contact was by telephone or in person, and the date  
 709 and time of the contact. Written notice that meets the  
 710 requirements of subsection (4) must be given the next business  
 711 day.

712 (7) The following persons must be present at each hearing  
 713 authorized under this section:

714 (a) The resident or the resident's legal guardian or  
 715 representative.

716 (b) The facility administrator or the facility's legal  
 717 representative or designee.

718  
 719 A representative of the local long-term care ombudsman council  
 720 may be present at each hearing authorized by this section.

721 (8) (a) The Office of Appeals Hearings of the Department of  
 722 Children and Family Services shall conduct hearings under this  
 723 section. The office shall notify the facility of a resident's  
 724 request for a hearing.

725 (b) The Department of Children and Family Services shall

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726 establish procedures by rule which shall be used for hearings  
 727 requested by residents. The burden of proof is by the  
 728 preponderance of the evidence. A hearing officer shall render a  
 729 decision within 15 days after receipt of the request for a  
 730 hearing, unless the facility and the resident, or the resident's  
 731 legal guardian or representative, agree to extend the deadline  
 732 for a decision.

733 (c) If the hearing officer's decision is favorable to a  
 734 resident who has already been relocated or whose residency has  
 735 been terminated, the resident must be readmitted to the facility  
 736 as soon as a bed is available.

737 (d) The decision of the hearing officer is final. Any  
 738 aggrieved party may appeal the decision to the district court of  
 739 appeal in the appellate district where the facility is located.  
 740 Review procedures shall be conducted in accordance with the  
 741 Florida Rules of Appellate Procedure.

742 (9) The Department of Children and Family Services may  
 743 adopt rules as necessary to administer this section.

744 (10) This section applies to relocations or terminations of  
 745 residency that are initiated by the assisted living facility,  
 746 and does not apply to those initiated by the resident or by the  
 747 resident's physician, legal guardian, or representative.

748 Section 11. Section 429.52, Florida Statutes, is amended to  
 749 read:

750 429.52 Preservice orientation ~~Staff training and~~  
 751 ~~educational programs; core educational requirement.~~

752 (1) Each employee and administrator of an assisted living  
 753 facility who is newly hired on or after July 1, 2012, shall  
 754 attend a preservice orientation provided by the assisted living

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755 facility which covers topics that enable an employee to relate  
 756 and respond to the population of that facility. The orientation  
 757 must be at least 2 hours in duration and, at a minimum, cover  
 758 the following topics:

759 (a) Care of persons who have Alzheimer's disease or other  
 760 related disorders;

761 (b) Deescalation techniques;

762 (c) Aggression control;

763 (d) Elopement prevention; and

764 (e) Behavior management.

765 (2) Upon completion of the preservice orientation, the  
 766 employee shall sign an affidavit, under penalty of perjury,  
 767 stating that he or she has completed the preservice orientation.  
 768 The administrator of the assisted living facility shall maintain  
 769 the signed affidavit in each employee's work file.

770 ~~(1) Administrators and other assisted living facility staff~~  
 771 ~~must meet minimum training and education requirements~~  
 772 ~~established by the Department of Elderly Affairs by rule. This~~  
 773 ~~training and education is intended to assist facilities to~~  
 774 ~~appropriately respond to the needs of residents, to maintain~~  
 775 ~~resident care and facility standards, and to meet licensure~~  
 776 ~~requirements.~~

777 ~~(2) The department shall establish a competency test and a~~  
 778 ~~minimum required score to indicate successful completion of the~~  
 779 ~~training and educational requirements. The competency test must~~  
 780 ~~be developed by the department in conjunction with the agency~~  
 781 ~~and providers. The required training and education must cover at~~  
 782 ~~least the following topics:~~

783 ~~(a) State law and rules relating to assisted living~~

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784 ~~facilities.~~

785 ~~(b) Resident rights and identifying and reporting abuse,~~  
 786 ~~neglect, and exploitation.~~

787 ~~(c) Special needs of elderly persons, persons with mental~~  
 788 ~~illness, and persons with developmental disabilities and how to~~  
 789 ~~meet those needs.~~

790 ~~(d) Nutrition and food service, including acceptable~~  
 791 ~~sanitation practices for preparing, storing, and serving food.~~

792 ~~(e) Medication management, recordkeeping, and proper~~  
 793 ~~techniques for assisting residents with self-administered~~  
 794 ~~medication.~~

795 ~~(f) Firesafety requirements, including fire evacuation~~  
 796 ~~drill procedures and other emergency procedures.~~

797 ~~(g) Care of persons with Alzheimer's disease and related~~  
 798 ~~disorders.~~

799 ~~(3) Effective January 1, 2004, a new facility administrator~~  
 800 ~~must complete the required training and education, including the~~  
 801 ~~competency test, within a reasonable time after being employed~~  
 802 ~~as an administrator, as determined by the department. Failure to~~  
 803 ~~do so is a violation of this part and subjects the violator to~~  
 804 ~~an administrative fine as prescribed in s. 429.19.~~

805 ~~Administrators licensed in accordance with part II of chapter~~  
 806 ~~468 are exempt from this requirement. Other licensed~~  
 807 ~~professionals may be exempted, as determined by the department~~  
 808 ~~by rule.~~

809 ~~(4) Administrators are required to participate in~~  
 810 ~~continuing education for a minimum of 12 contact hours every 2~~  
 811 ~~years.~~

812 ~~(5) Staff involved with the management of medications and~~

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813 ~~assisting with the self-administration of medications under s.~~  
 814 ~~429.256 must complete a minimum of 4 additional hours of~~  
 815 ~~training provided by a registered nurse, licensed pharmacist, or~~  
 816 ~~department staff. The department shall establish by rule the~~  
 817 ~~minimum requirements of this additional training.~~

818 ~~(6) Other facility staff shall participate in training~~  
 819 ~~relevant to their job duties as specified by rule of the~~  
 820 ~~department.~~

821 ~~(7) If the department or the agency determines that there~~  
 822 ~~are problems in a facility that could be reduced through~~  
 823 ~~specific staff training or education beyond that already~~  
 824 ~~required under this section, the department or the agency may~~  
 825 ~~require, and provide, or cause to be provided, the training or~~  
 826 ~~education of any personal care staff in the facility.~~

827 ~~(8) The department shall adopt rules related to these~~  
 828 ~~training requirements, the competency test, necessary~~  
 829 ~~procedures, and competency test fees and shall adopt or contract~~  
 830 ~~with another entity to develop a curriculum, which shall be used~~  
 831 ~~as the minimum core training requirements. The department shall~~  
 832 ~~consult with representatives of stakeholder associations and~~  
 833 ~~agencies in the development of the curriculum.~~

834 ~~(9) The training required by this section shall be~~  
 835 ~~conducted by persons registered with the department as having~~  
 836 ~~the requisite experience and credentials to conduct the~~  
 837 ~~training. A person seeking to register as a trainer must provide~~  
 838 ~~the department with proof of completion of the minimum core~~  
 839 ~~training education requirements, successful passage of the~~  
 840 ~~competency test established under this section, and proof of~~  
 841 ~~compliance with the continuing education requirement in~~

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842 ~~subsection (4).~~

843 ~~(10) A person seeking to register as a trainer must also:~~

844 ~~(a) Provide proof of completion of a 4-year degree from an~~  
 845 ~~accredited college or university and must have worked in a~~  
 846 ~~management position in an assisted living facility for 3 years~~  
 847 ~~after being core certified;~~

848 ~~(b) Have worked in a management position in an assisted~~  
 849 ~~living facility for 5 years after being core certified and have~~  
 850 ~~1 year of teaching experience as an educator or staff trainer~~  
 851 ~~for persons who work in assisted living facilities or other~~  
 852 ~~long term care settings;~~

853 ~~(c) Have been previously employed as a core trainer for the~~  
 854 ~~department; or~~

855 ~~(d) Meet other qualification criteria as defined in rule,~~  
 856 ~~which the department is authorized to adopt.~~

857 ~~(11) The department shall adopt rules to establish trainer~~  
 858 ~~registration requirements.~~

859 Section 12. Section 429.50, Florida Statutes, is created to  
 860 read:

861 429.50 Licensure of assisted living facility  
 862 administrators.-

863 (1) An assisted living facility may not operate in this  
 864 state unless the facility is under the management of an assisted  
 865 living facility administrator who holds a valid license or  
 866 provisional license.

867 (2) In order to be eligible to be licensed as an assisted  
 868 living facility administrator, an applicant must:

869 (a) Be at least 21 years old;

870 (b) Meet the educational requirements under subsection (5);

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871 (c) Complete the training requirements in s. 429.521(2);  
 872 (d) Pass all required competency tests required in s.  
 873 429.521(2) with a minimum score of 80;  
 874 (e) Complete background screening pursuant to s. 429.174;  
 875 and  
 876 (f) Otherwise meet the requirements of this part.  
 877 (3) (a) An assisted living facility administrator who has  
 878 been employed continuously for at least the 2 years immediately  
 879 before July 1, 2012, is eligible for licensure without meeting  
 880 the educational requirements of this section and without  
 881 completing the required core training and passing the competency  
 882 test if proof of compliance with the continuing education  
 883 requirements in this part is submitted to the agency and the  
 884 applicant has not been an administrator of a facility that was  
 885 cited for a class I or class II violation within the previous 2  
 886 years.  
 887 (b) Notwithstanding paragraph (a), an assisted living  
 888 facility administrator who has been employed continuously for at  
 889 least the 2 years immediately before July 1, 2012, must complete  
 890 the mental health training and pass the competency test required  
 891 in s. 429.521(2) (c) if the administrator is employed at a  
 892 facility that has a mental health license, and the administrator  
 893 must complete the supplemental training required in s.  
 894 429.521(2) (b) before licensure.  
 895 (4) (a) An administrator who is licensed in accordance with  
 896 part II of chapter 468 is exempt from the educational  
 897 requirements of this section and the core training requirements  
 898 in s. 429.521(2). Any other licensed professional may be  
 899 exempted as determined by the agency by rule.

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900 (b) Notwithstanding paragraph (a), an administrator who is  
 901 licensed in accordance with part II of chapter 468, and any  
 902 other licensed professional who is exempted by rule, and who is  
 903 employed at a facility that has a mental health license must  
 904 complete the mental health training and pass the competency test  
 905 required in s.429.521(2) (c) and must complete the supplemental  
 906 training required in s. 429.521(2) (b) before licensure.  
 907 (5) Before licensure, the applicant must submit to the  
 908 agency proof that he or she is at least 21 years old and has a  
 909 4-year baccalaureate degree that includes some coursework in  
 910 health care, gerontology, or geriatrics. An applicant who  
 911 submits proof to the agency that he or she has a 4-year  
 912 baccalaureate degree or a 2-year associate degree that includes  
 913 coursework in health care, gerontology, or geriatrics, and has  
 914 provided at least 2 years of direct care in an assisted living  
 915 facility or nursing home is also eligible for licensure.  
 916 (6) The agency shall issue a license as an assisted living  
 917 facility administrator to any applicant who successfully  
 918 completes the required training and passes the competency tests  
 919 in accordance with s. 429.521, provides the requisite proof of  
 920 required education, and otherwise meets the requirements of this  
 921 part.  
 922 (7) The agency shall establish licensure fees for licensure  
 923 as an assisted living facility administrator, which shall be  
 924 renewed biennially and may not exceed \$250 for the initial  
 925 licensure or \$250 for each licensure renewal.  
 926 Section 13. Section 429.512, Florida Statutes, is created  
 927 to read:  
 928 429.512 Provisional licenses; inactive status.—

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929 (1) The agency may establish by rule requirements for  
 930 issuance of a provisional license. A provisional license may be  
 931 issued only for the purpose of filling a position of an assisted  
 932 living facility administrator which unexpectedly becomes vacant  
 933 and may be issued for one single period as provided by rule,  
 934 which may not exceed 6 months. The provisional license may be  
 935 issued to a person who does not meet all of the licensure  
 936 requirements established in s. 429.50, but the agency shall by  
 937 rule establish minimal requirements to ensure protection of the  
 938 public health, safety, and welfare. The provisional license may  
 939 be issued to the person who is designated as the responsible  
 940 person next in command if the position of an assisted living  
 941 facility administrator becomes vacant. The agency may set an  
 942 application fee for a provisional license which may not exceed  
 943 \$500.

944 (2) An administrator's license becomes inactive if the  
 945 administrator does not complete the continuing education courses  
 946 and pass the corresponding tests within the requisite time or if  
 947 the administrator does not timely pay the licensure renewal fee.  
 948 An administrator may also apply for inactive license status. The  
 949 agency shall adopt rules governing the application procedures  
 950 for obtaining an inactive license status, the renewal of an  
 951 inactive license, and the reactivation of a license. The agency  
 952 shall prescribe by rule an application fee for inactive license  
 953 status, a renewal fee for inactive license status, a delinquency  
 954 fee, and a fee for reactivating a license. These fees may not  
 955 exceed the amount established by the agency for the biennial  
 956 renewal fee for an active license.

957 (3) The agency may not reactivate a license unless the

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958 inactive or delinquent licensee has paid any applicable biennial  
 959 renewal or delinquency fees and the reactivation fee.

960 Section 14. Section 429.521, Florida Statutes, is created  
 961 to read:

962 429.521 Training requirements.—

963 (1) GENERAL REQUIREMENTS.—

964 (a) Each administrator, applicant to become assisted living  
 965 facility administrator, or staff member of an assisted living  
 966 facility must meet minimum training requirements established by  
 967 rule by the Department of Elderly Affairs. This training is  
 968 intended to assist facilities in appropriately responding to the  
 969 needs of residents, maintaining resident care and facility  
 970 standards, and meeting licensure requirements.

971 (b) The department, in conjunction with the Department of  
 972 Children and Family Services and stakeholders, shall establish a  
 973 standardized core training curriculum that must be completed by  
 974 an applicant for licensure as an assisted living facility  
 975 administrator. The curriculum must be offered in English and  
 976 Spanish, reviewed annually, and updated as needed to reflect  
 977 changes in the law, rules, and best practices. The required  
 978 training must cover, at a minimum, the following topics:

979 1. State law and rules relating to assisted living  
 980 facilities.

981 2. Resident's rights and procedures for identifying and  
 982 reporting abuse, neglect, and exploitation.

983 3. Special needs of elderly persons, persons who have  
 984 mental illness, and persons who have developmental disabilities  
 985 and how to meet those needs.

986 4. Nutrition and food service, including acceptable

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987 sanitation practices for preparing, storing, and serving food.

988 5. Medication management, recordkeeping, and proper

989 techniques for assisting residents who self-administer

990 medication.

991 6. Firesafety requirements, including procedures for fire

992 evacuation drills and other emergency procedures.

993 7. Care of persons who have Alzheimer's disease and related

994 disorders.

995 8. Elopement prevention.

996 9. Aggression and behavior management, deescalation

997 techniques, and proper protocols and procedures of the Baker Act

998 as provided in part I of chapter 394.

999 10. Do not resuscitate orders.

1000 11. Infection control.

1001 12. Admission, continuing residency, and best practices in

1002 the industry.

1003 13. Phases of care and interacting with residents.

1004

1005 The department, in conjunction with the Department of Children

1006 and Family Services and stakeholders, shall also develop a

1007 supplemental course consisting of topics related to extended

1008 congregate care, limited mental health, and business operations,

1009 including, but not limited to, human resources, financial

1010 management, and supervision of staff, which must completed by an

1011 applicant for licensure as an assisted living facility

1012 administrator.

1013 (c) The department, in conjunction with the Department of

1014 Children and Family Services and stakeholders, shall establish a

1015 standardized core training curriculum for staff members of an

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1016 assisted living facility who provide regular or direct care to

1017 residents. This training curriculum must be offered in English

1018 and Spanish, reviewed annually, and updated as needed to reflect

1019 changes in the law, rules, and best practices. The training

1020 curriculum must cover, at a minimum, the following topics:

1021 1. The reporting of major incidents.

1022 2. The reporting of adverse incidents.

1023 3. Emergency procedures, including chain-of-command and

1024 staff roles relating to emergency evacuation.

1025 4. Residents' rights in an assisted living facility.

1026 5. The recognition and reporting of resident abuse,

1027 neglect, and exploitation.

1028 6. Resident behavior and needs.

1029 7. Assistance with the activities of daily living.

1030 8. Infection control.

1031 9. Aggression and behavior management and deescalation

1032 techniques.

1033 (d) The department, in conjunction with the agency and

1034 stakeholders, shall create two competency tests, one for

1035 applicants for licensure as an assisted living facility

1036 administrator and one for staff members of an assisted living

1037 facility who provide regular or direct care to residents, which

1038 test the individual's comprehension of the training required in

1039 paragraphs (b) and (c). The competency tests must be reviewed

1040 annually and updated as needed to reflect changes in the law,

1041 rules, and best practices. The competency tests must be offered

1042 in English and Spanish and may be made available through testing

1043 centers.

1044 (e) The department shall establish a five-member panel of

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1045 mental health professionals to develop a comprehensive,  
 1046 standardized training curriculum and competency tests to satisfy  
 1047 the requirements for mental health training in subsections (2)  
 1048 and (3). The curriculum and tests must be reviewed annually and  
 1049 updated as needed to reflect changes in the law, rules, and best  
 1050 practices. The competency tests must be offered in English and  
 1051 Spanish and may be made available online or through testing  
 1052 centers.

1053 (f) The department, in conjunction with the Department of  
 1054 Children and Family Services and stakeholders, shall establish  
 1055 curricula for continuing education for administrators and staff  
 1056 members of an assisted living facility. Continuing education  
 1057 shall include topics similar to that of the core training  
 1058 required for staff members and applicants for licensure as  
 1059 assisted living facility administrators. Required continuing  
 1060 education must, at a minimum, cover the following topics:

- 1061 1. Elopement prevention;
- 1062 2. Deescalation techniques; and
- 1063 3. Phases of care and interacting with residents.

1064 (g) The department shall ensure that all continuing  
 1065 education curricula include a test upon completion of the  
 1066 training which demonstrates comprehension of the training. The  
 1067 training and the test must be offered in English and Spanish,  
 1068 reviewed annually, and updated as needed to reflect changes in  
 1069 the law, rules, and best practices. Continuing education and the  
 1070 required test may be offered through online courses and any fees  
 1071 associated to the online service shall be borne by the  
 1072 participant.

1073 (h) The department shall adopt rules related to training

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1074 requirements, competency tests, necessary procedures, and  
 1075 training and testing fees.

1076 (2) ADMINISTRATORS AND APPLICANTS FOR LICENSURE AS AN  
 1077 ASSISTED LIVING FACILITY ADMINISTRATOR.—

1078 (a) An applicant for licensure as an assisted living  
 1079 facility administrator shall complete a minimum of 40 hours of  
 1080 core training that covers the required topics provided for in  
 1081 paragraph (1)(b).

1082 (b) In addition to the required 40 hours of core training,  
 1083 each applicant must complete a minimum of 10 hours of  
 1084 supplemental training related to extended congregate care,  
 1085 limited mental health, and business operations, including, but  
 1086 not limited to, human resources, financial management, and  
 1087 supervision of staff.

1088 (c) An applicant shall take a competency test that assesses  
 1089 the applicant's knowledge and comprehension of the required  
 1090 training provided for in paragraphs (a) and (b). A minimum score  
 1091 of 80 is required to show successful completion of the training  
 1092 requirements of this subsection. The applicant taking the test  
 1093 is responsible for any testing fees.

1094 (d) If an applicant for licensure as an assisted living  
 1095 facility administrator fails any competency test, the individual  
 1096 must wait at least 10 days before retaking the test. If the  
 1097 applicant fails a competency test three times, the individual  
 1098 must retake the applicable training before retaking the test.

1099 (e) A licensed administrator shall receive at least 1 hour  
 1100 of inservice training regarding the facility's policies and  
 1101 procedures related to resident elopement response within 30 days  
 1102 after employment at a facility. Each administrator must be

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1103 provided a copy of the facility's policies and procedures  
 1104 related to resident elopement response and shall demonstrate an  
 1105 understanding and competency in the implementation of these  
 1106 policies and procedures.

1107 (f) Each licensed administrator of an assisted living  
 1108 facility that has a limited mental health license must complete  
 1109 a minimum of 8 hours of mental health training and pass a  
 1110 competency test related to the training within 30 days after  
 1111 employment at the facility. A minimum score of 80 is required to  
 1112 show successful passage of the mental health competency test. An  
 1113 administrator who does not pass the test within 6 months after  
 1114 completing the mental health training is ineligible to be an  
 1115 administrator of an assisted living facility that has a limited  
 1116 mental health license until the administrator achieves a passing  
 1117 score. The competency test may be made available online or  
 1118 through testing centers and must be offered in English and  
 1119 Spanish.

1120 (g) A licensed administrator of an assisted living facility  
 1121 that has an extended congregate care license must complete a  
 1122 minimum of 6 hours of extended congregate care training within  
 1123 30 days after employment.

1124 (h) A licensed administrator of an assisted living facility  
 1125 that has a limited nursing services license must complete a  
 1126 minimum of 4 hours of training related to the special needs and  
 1127 care of those persons who require limited nursing services  
 1128 within 30 days after employment.

1129 (i) A licensed administrator must participate in continuing  
 1130 education for a minimum of 18 contact hours every 2 years and  
 1131 pass the corresponding test upon completion of the continuing

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1132 education course with a minimum score of 80. Completion of all  
 1133 continuing education and a passing score on any corresponding  
 1134 tests must be achieved before license renewal. Continuing  
 1135 education may be offered through online courses, and any fees  
 1136 associated to the online service shall be borne by the  
 1137 participant.

1138 (3) STAFF TRAINING.—

1139 (a) Each staff member of an assisted living facility shall  
 1140 receive at least 1 hour of inservice training regarding the  
 1141 facility's policies and procedures related to resident elopement  
 1142 response within 30 days after employment. Each staff member must  
 1143 be provided a copy of the facility's policies and procedures  
 1144 related to resident elopement response and shall demonstrate an  
 1145 understanding and competency in the implementation of these  
 1146 policies and procedures.

1147 (b) Each staff member of an assisted living facility who is  
 1148 hired on or after July 1, 2012, and who provides regular or  
 1149 direct care to residents, shall complete a minimum of 20 hours  
 1150 of core training within 90 days after employment at a facility.  
 1151 The department may exempt nurses, certified nursing assistants,  
 1152 or home health aides who can demonstrate completion of training  
 1153 that is substantially similar to that of the core training  
 1154 required in this paragraph.

1155 (c) Each staff member of an assisted living facility who is  
 1156 hired on or after July 1, 2012, and who provides regular or  
 1157 direct care to residents, must take a competency test within 90  
 1158 days after employment at a facility which assesses the  
 1159 individual's knowledge and comprehension of the required  
 1160 training provided for in paragraph (b). A minimum score of 70 on

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1161 the competency test is required to show successful completion of  
 1162 the training requirements. If a staff member fails the  
 1163 competency test, the individual must wait at least 10 days  
 1164 before retaking the test. If a staff member fails the competency  
 1165 test three times, the individual must retake the initial core  
 1166 training before retaking the test. If a staff member does not  
 1167 pass the competency test within 1 year after employment, the  
 1168 individual may not provide regular or direct care to residents  
 1169 until the individual successfully passes the test. The  
 1170 individual taking the test is responsible for any testing fees.

1171 (d) A staff member of an assisted living facility that has  
 1172 a limited mental health license who provides regular or direct  
 1173 care to residents must complete a minimum of 8 hours of mental  
 1174 health training within 30 days after employment. Within 30 days  
 1175 after this training, the staff member must pass a competency  
 1176 test related to the mental health training with a minimum score  
 1177 of 70. If a staff member does not pass the competency test, the  
 1178 individual may not provide regular or direct care to residents  
 1179 until the individual successfully passes the test. The  
 1180 competency test may be made available online or through testing  
 1181 centers and must be offered in English and Spanish.

1182 (e) A staff member of an assisted living facility who  
 1183 prepares or serves food must receive a minimum of 1 hour of  
 1184 inservice training in safe food handling practices within 30  
 1185 days after employment.

1186 (f) A staff member of an assisted living facility who  
 1187 manages medications and assists with the self-administration of  
 1188 medications under s. 429.256 must complete, within 30 days after  
 1189 employment, a minimum of 4 additional hours of training provided

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1190 by a registered nurse, licensed pharmacist, or department staff.  
 1191 The department shall establish by rule the minimum requirements  
 1192 for this training, including continuing education requirements.

1193 (g) Other staff members of an assisted living facility  
 1194 shall participate in training relevant to their job duties as  
 1195 specified by rule of the department.

1196 (h) If the department or the agency determines that there  
 1197 are problems in a facility which could be reduced through  
 1198 specific staff training beyond that already required under this  
 1199 subsection, the department or the agency may require and  
 1200 provide, or cause to be provided, additional training of any  
 1201 staff member in the facility.

1202 (i) Each staff member of an assisted living facility who  
 1203 provides regular or direct care to residents must participate in  
 1204 continuing education for a minimum of 10 contact hours every 2  
 1205 years and pass the corresponding test upon completion of the  
 1206 continuing education course with a minimum score of 70. If an  
 1207 individual does not complete all required continuing education  
 1208 and pass any corresponding tests within the requisite time  
 1209 period, the individual may not provide regular or direct care to  
 1210 residents until the individual does so. Continuing education may  
 1211 be offered through online courses and any fees associated to the  
 1212 online service shall be borne by the participant.

1213 Section 15. Section 429.522, Florida Statutes, is created  
 1214 to read:

1215 429.522 Core training providers; certification.-

1216 (1) DEFINITIONS.-As used in this section, the term:

1217 (a) "Core trainer certification" means a professional  
 1218 credential awarded to individuals demonstrating core competency

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1219 in the assisted living facility practice area by a department-  
 1220 approved third-party credentialing entity.

1221 (b) "Core competency" means the minimum knowledge, skills,  
 1222 and abilities necessary to perform work responsibilities.

1223 (c) "Core curriculum" means the minimum statewide training  
 1224 content that is based upon the core competencies and is made  
 1225 available to persons providing services at an assisted living  
 1226 facility.

1227 (d) "Third-party credentialing entity" means a department-  
 1228 approved nonprofit organization that has met nationally  
 1229 recognized standards for developing and administering  
 1230 professional certification programs.

1231 (2) THIRD-PARTY CREDENTIALING ENTITIES.-The department  
 1232 shall approve and provide oversight for one or more third-party  
 1233 credentialing entities for the purpose of developing and  
 1234 administering core trainer certification programs for persons  
 1235 providing training to applicants for licensure as an assisted  
 1236 living facility administrator and to staff members of an  
 1237 assisted living facility. A third-party credentialing entity  
 1238 shall request this approval in writing from the department. In  
 1239 order to obtain approval, the third-party credentialing entity  
 1240 shall:

1241 (a) Establish professional requirements and standards that  
 1242 applicants must achieve in order to obtain core trainer  
 1243 certification and to maintain such certification. At a minimum,  
 1244 an applicant shall meet one of the following requirements:

1245 1. Provide proof of completion of a 4-year baccalaureate  
 1246 degree from an accredited college or university and have worked  
 1247 in a management position in an assisted living facility for at

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1248 least 3 years after obtaining core trainer certification;

1249 2. Have worked in a management position in an assisted  
 1250 living facility for at least 5 years after obtaining core  
 1251 trainer certification and have at least 1 year of teaching  
 1252 experience as an educator or staff trainer for persons who work  
 1253 in assisted living facilities or other long-term care settings;

1254 3. Have been previously certified as a core trainer for the  
 1255 department;

1256 4. Have a minimum of 5 years of employment with the agency,  
 1257 or the former Department of Health and Rehabilitative Services,  
 1258 as a surveyor of assisted living facilities;

1259 5. Have a minimum of 5 years of employment in a  
 1260 professional position in the agency's assisted living unit;

1261 6. Have a minimum of 5 years of employment as an educator  
 1262 or staff trainer for persons working in an assisted living  
 1263 facility or other long-term care setting;

1264 7. Have a minimum of 5 years of employment as a core  
 1265 trainer for an assisted living facility, which employment was  
 1266 not directly associated with the department; or

1267 8. Have a minimum of a 4-year baccalaureate degree from an  
 1268 accredited college or university in the areas of health care,  
 1269 gerontology, social work, education, or human services, and a  
 1270 minimum of 4 years of experience as an educator or staff trainer  
 1271 for persons who work in an assisted living facility or other  
 1272 long-term care setting after receiving core trainer  
 1273 certification.

1274 (b) Apply core competencies according to the department's  
 1275 standards as provided in s. 429.521.

1276 (c) Maintain a professional code of ethics and establish a

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1277 disciplinary process and a decertification process that applies  
1278 to all persons holding core trainer certification.

1279 (d) Maintain a database, accessible to the public, of all  
1280 persons who have core trainer certification, including any  
1281 history of violations.

1282 (e) Require annual continuing education for persons who  
1283 have core trainer certification.

1284 (f) Administer a continuing education provider program to  
1285 ensure that only qualified providers offer continuing education  
1286 opportunities for certificateholders.

1287 (3) CORE TRAINER CERTIFICATION.—At a minimum, an individual  
1288 seeking core trainer certification must provide the third-party  
1289 credentialing entity with proof of:

1290 (a) Completion of the minimum core training requirements in  
1291 s. 429.521(2) and successful passage of the corresponding  
1292 competency tests with a minimum score of 80;

1293 (b) Compliance with the continuing education requirements  
1294 in s. 429.521(2); and

1295 (c) Compliance with the professional requirements and  
1296 standards required in paragraph (2)(a).

1297 (4) ADOPTION OF RULES.—The department shall adopt rules  
1298 necessary to administer this section.

1299 Section 16. Section 429.55, Florida Statutes, is created to  
1300 read:

1301 429.55 Electronic monitoring of resident's room.—

1302 (1) DEFINITIONS.—As used in this section, the term:

1303 (a) "Authorized electronic monitoring" means the placement  
1304 of an electronic monitoring device in the room of a resident of  
1305 an assisted living facility and the making of tapes or

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1306 recordings through use of the device after making a request to  
1307 the facility and obtaining all necessary consent to allow  
1308 electronic monitoring.

1309 (b) "Electronic monitoring device" means video surveillance  
1310 cameras or audio devices installed in the room of a resident  
1311 which are designed to acquire communications or other sounds  
1312 occurring in the room. The term does not include an electronic,  
1313 mechanical, or other device that is specifically used for the  
1314 nonconsensual interception of wire or electronic communications.

1315 (2) COVERT USE OF ELECTRONIC MONITORING DEVICE.—For  
1316 purposes of this section, the placement and use of an electronic  
1317 monitoring device in the room of a resident is considered to be  
1318 covert if:

1319 (a) The placement and use of the device is not open and  
1320 obvious; and

1321 (b) The facility and the agency are not informed about the  
1322 device by the resident, by a person who placed the device in the  
1323 room, or by a person who is using the device.

1324 The agency and the facility are not civilly liable in connection  
1325 with the covert placement or use of an electronic monitoring  
1326 device in the room of the resident.

1327 (3) REQUIRED FORM ON ADMISSION.—The agency shall prescribe  
1328 by rule a form that must be completed and signed upon a  
1329 resident's admission to a facility by or on behalf of the  
1330 resident. The form must state:

1331 (a) That a person who places an electronic monitoring  
1332 device in the room of a resident or who uses or discloses a tape  
1333 or other recording made by the device may be civilly liable for  
1334

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1335 any unlawful violation of the privacy rights of another;  
 1336 (b) That a person who covertly places an electronic  
 1337 monitoring device in the room of a resident or who consents to  
 1338 or acquiesces in the covert placement of the device in the room  
 1339 of a resident has waived any privacy right the person may have  
 1340 had in connection with images or sounds that may be acquired by  
 1341 the device;  
 1342 (c) That a resident or the resident's guardian or legal  
 1343 representative is entitled to conduct authorized electronic  
 1344 monitoring under this section and that, if the facility refuses  
 1345 to permit the electronic monitoring or fails to make reasonable  
 1346 physical accommodations for the authorized electronic  
 1347 monitoring, the person should contact the agency. The form must  
 1348 also provide the agency's contact information;  
 1349 (d) The basic procedures that must be followed in order to  
 1350 request authorized electronic monitoring;  
 1351 (e) That the electronic monitoring device and all  
 1352 installation and maintenance costs must be paid for by the  
 1353 resident or the resident's guardian or legal representative;  
 1354 (f) The legal requirement to report abuse or neglect when  
 1355 electronic monitoring is being conducted; and  
 1356 (g) Any other information regarding covert or authorized  
 1357 electronic monitoring which the agency considers advisable to  
 1358 include on the form.  
 1359 (4) AUTHORIZATION AND CONSENT.—  
 1360 (a) If a resident has the capacity to request electronic  
 1361 monitoring and has not been judicially declared to lack the  
 1362 required capacity, only the resident may request authorized  
 1363 electronic monitoring under this section, notwithstanding the

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1364 terms of any durable power of attorney or similar instrument.  
 1365 (b) If a resident has been judicially declared to lack the  
 1366 capacity required for taking an action, such as requesting  
 1367 electronic monitoring, only the guardian of the resident may  
 1368 request electronic monitoring under this section.  
 1369 (c) If a resident does not have capacity to request  
 1370 electronic monitoring but has not been judicially declared to  
 1371 lack the required capacity, only the legal representative of the  
 1372 resident may request electronic monitoring under this section.  
 1373 (d) A resident or the guardian or legal representative of a  
 1374 resident who wishes to conduct authorized electronic monitoring  
 1375 must make the request to the facility on a form prescribed by  
 1376 the agency.  
 1377 (e) The form prescribed by the agency must require the  
 1378 resident or the resident's guardian or legal representative to:  
 1379 1. Release the facility from any civil liability for a  
 1380 violation of the resident's privacy rights in connection with  
 1381 the use of the electronic monitoring device;  
 1382 2. If the electronic monitoring device is a video  
 1383 surveillance camera, choose whether the camera will always be  
 1384 unobstructed or whether the camera should be obstructed in  
 1385 specified circumstances in order to protect the dignity of the  
 1386 resident; and  
 1387 3. Obtain the consent of the other residents in the room,  
 1388 using a form prescribed for this purpose by the agency, if the  
 1389 resident resides in a multiperson room.  
 1390 (f) Consent under subparagraph (e)3. may be given only by:  
 1391 1. The other resident or residents in the room;  
 1392 2. The guardian of the other resident in the room, if the

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1393 person has been judicially declared to lack the required  
 1394 capacity to consent; or

1395 3. The legal representative of the other resident in the  
 1396 room, if the person does not have capacity to sign the form but  
 1397 has not been judicially declared to lack the required capacity  
 1398 to consent.

1399 (g) The form prescribed by the agency under subparagraph  
 1400 (e)3. must condition the consent of another resident in the room  
 1401 on the other resident also releasing the facility from any civil  
 1402 liability for a violation of the person's privacy rights in  
 1403 connection with the use of the electronic monitoring device.

1404 (h) Another resident in the room may:

1405 1. If the proposed electronic monitoring device is a video  
 1406 surveillance camera, condition consent on the camera being  
 1407 pointed away from the consenting resident; and

1408 2. Condition consent on the use of an audio electronic  
 1409 monitoring device being limited or prohibited.

1410 (i) If authorized electronic monitoring is being conducted  
 1411 in the room of a resident and another resident is moved into the  
 1412 room who has not yet consented to the electronic monitoring,  
 1413 authorized electronic monitoring must cease until the new  
 1414 resident has consented in accordance with this subsection.

1415 (j) Authorized electronic monitoring may not commence until  
 1416 all request and consent forms required by this subsection have  
 1417 been completed and returned to the facility, and the monitoring  
 1418 must be conducted in accordance with any limitation placed on  
 1419 the monitoring as a condition of the consent given by or on  
 1420 behalf of another resident in the room.

1421 (k) The agency may include other information that the

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1422 agency considers to be appropriate on any of the forms that the  
 1423 agency is required to prescribe under this subsection.

1424 (1) The agency shall adopt rules to administer this  
 1425 subsection.

1426 (5) AUTHORIZED ELECTRONIC MONITORING; GENERAL PROVISIONS.—

1427 (a) A facility shall allow a resident or the resident's  
 1428 guardian or legal representative to monitor the room of the  
 1429 resident through the use of electronic monitoring devices.

1430 (b) The facility shall require a resident who conducts  
 1431 authorized electronic monitoring or the resident's guardian or  
 1432 legal representative to post and maintain a conspicuous notice  
 1433 at the entrance of the resident's room which states that the  
 1434 room is being monitored by an electronic monitoring device.

1435 (c) Authorized electronic monitoring conducted under this  
 1436 section is not compulsory and may be conducted only at the  
 1437 request of the resident or the resident's guardian or legal  
 1438 representative.

1439 (d) A facility may not refuse to admit an individual to  
 1440 residency in the facility and may not remove a resident from the  
 1441 facility because of a request to conduct authorized electronic  
 1442 monitoring.

1443 (e) A facility shall make reasonable physical  
 1444 accommodations for authorized electronic monitoring, including  
 1445 providing:

1446 1. A reasonably secure place to mount the video  
 1447 surveillance camera or other electronic monitoring device; and

1448 2. Access to power sources for the video surveillance  
 1449 camera or other electronic monitoring device.

1450 (f) A facility may require an electronic monitoring device

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1451 to be installed in a manner that is safe for residents,  
 1452 employees, or visitors who may be moving about a room.

1453 (g) If authorized electronic monitoring is conducted, the  
 1454 facility may require the resident or the resident's guardian or  
 1455 legal representative to conduct the electronic monitoring in  
 1456 plain view.

1457 (h) A facility may place a resident in a different room in  
 1458 order to accommodate a request to conduct authorized electronic  
 1459 monitoring.

1460 (6) REPORTING ABUSE AND NEGLECT.—A person shall report  
 1461 abuse to the central abuse hotline of the Department of Children  
 1462 and Family Services pursuant to s. 415.103 based on the person's  
 1463 viewing of or listening to a tape or recording by an electronic  
 1464 monitoring device if the incident of abuse is acquired on the  
 1465 tape or recording. A person shall report neglect to the central  
 1466 abuse hotline pursuant to s. 415.103 based on the person's  
 1467 viewing of or listening to a tape or recording by an electronic  
 1468 monitoring device if it is clear from viewing or listening to  
 1469 the tape or recording that neglect has occurred. If a person  
 1470 reports abuse or neglect to the central abuse hotline pursuant  
 1471 to this subsection, the person shall also send to the agency a  
 1472 copy of the tape or recording which indicates the reported abuse  
 1473 or neglect.

1474 (7) USE OF TAPE OR RECORDING.—

1475 (a) Subject to applicable rules of evidence and procedure  
 1476 and the requirements of this subsection, a tape or recording  
 1477 created through the use of covert or authorized electronic  
 1478 monitoring may be admitted into evidence in a civil or criminal  
 1479 court action or administrative proceeding.

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1480 (b) A court or administrative agency may not admit into  
 1481 evidence a tape or recording created through the use of covert  
 1482 or authorized electronic monitoring or take or authorize action  
 1483 based on the tape or recording unless:

1484 1. The tape or recording shows the time and date that the  
 1485 events acquired on the tape or recording occurred;

1486 2. The contents of the tape or recording have not been  
 1487 edited or artificially enhanced; and

1488 3. If the contents of the tape or recording have been  
 1489 transferred from the original format to another technological  
 1490 format, the transfer was done by a qualified professional and  
 1491 the contents of the tape or recording were not altered.

1492 (c) A person who sends more than one tape or recording to  
 1493 the agency shall identify for the agency each tape or recording  
 1494 on which the person believes that an incident of abuse or  
 1495 evidence of neglect may be found.

1496 (8) REQUIRED NOTICE.—Each facility shall post a notice at  
 1497 the entrance to the facility stating that the rooms of some  
 1498 residents are monitored electronically by or on behalf of the  
 1499 residents and that the monitoring is not necessarily open and  
 1500 obvious.

1501 (9) ENFORCEMENT.—The agency may impose appropriate  
 1502 administrative sanctions under this part against an  
 1503 administrator of a facility who knowingly:

1504 (a) Refuses to permit a resident or the resident's guardian  
 1505 or legal representative to conduct authorized electronic  
 1506 monitoring;

1507 (b) Refuses to admit an individual to residency or allows  
 1508 the removal of a resident from the facility because of a request

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1509 to conduct authorized electronic monitoring; or

1510 (c) Violates another provision of this section.

1511 (10) RULES.—The agency shall adopt rules as necessary to

1512 administer this section.

1513 Section 17. This act shall take effect July 1, 2012.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/19/2012  
Meeting Date

Topic ALFs Bill Number PCB 7176  
Name Dana Farmer Amendment Barcode \_\_\_\_\_  
Job Title Dir. Legislative & Public Affairs (if applicable)  
Address 2728 Centerview Dr, Suite 102 Phone (850)488-9071 x9709  
TLC FL 32301 E-mail \_\_\_\_\_  
City State Zip dana@d DisabilityRightsFlorida.org  
Speaking:  For  Against  Information  
Representing Disability Rights Florida  
Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/19/12  
Meeting Date

Topic ALF Bill Number 7176  
Name Bob Sharpe Amendment Barcode \_\_\_\_\_  
Job Title President (if applicable)  
Address 316 E Park Ave Phone 850/224-6048  
Jacksonville FL 32301 E-mail bob@fccmh.org  
City State Zip  
Speaking:  For  Against  Information  
Representing Florida Council for Behavioral Hth Care  
Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)



## II. Present Situation:

### Background

#### *The Council on Homelessness and the State Office on Homelessness*

The Council on Homelessness (council) and the State Office on Homelessness (office) were created in 2001 within the department.<sup>1</sup> The 17-member council is comprised of representatives of state agencies, counties, homeless advocacy organizations, and volunteers.<sup>2</sup> The council's duties include developing policy and advising the office.<sup>3</sup>

The office coordinates state agency responses to homelessness, serves as a single point of contact on homeless issues in the state, and administers state-funded grant programs that support the activities of the 27 local homeless coalitions.<sup>4</sup> The office administers all homelessness grants through lead agencies. The lead agency has the responsibility for continuum of care plans that help communities or regions envision, plan and implement comprehensive and long term solutions to the problem of homelessness in the community.<sup>5</sup> Lead agencies are also authorized applicants for the Challenge Grant and the Homeless Housing Assistance Grant.

#### *Emergency Financial Assistance Program*

This state grant program provides support to families, with at least one minor child, who are currently without shelter or face the loss of shelter because of the following:<sup>6</sup>

- Nonpayment of rent or mortgage resulting in eviction or notice of eviction;
- Household disaster, which renders the home uninhabitable; or
- Other emergency situations defined in rule.

Families may receive up to \$400 during 1 period of 30 consecutive days in any 12 consecutive months.<sup>7</sup> DCF serves approximately 2,000 families a year under this program and utilizes OPS staff to assess eligibility and process payments.<sup>8</sup>

#### *Homeless Housing Assistance Grants*

This state grant program provides homeless housing assistance grants up to \$750,000 annually to lead agencies to acquire, construct, or rehabilitate transitional or permanent housing units for homeless persons.<sup>9</sup> Administrative costs are capped at 5% of the funds awarded.<sup>10</sup>

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<sup>1</sup> Ch. 2001-98, L.O.F.

<sup>2</sup> s. 420.622, F.S.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> s. 420.642, F.S.

<sup>6</sup> s. 414.16, F.S.

<sup>7</sup> 65A-33.011, F.A.C.

<sup>8</sup> Department of Children and Family Services. Staff Analysis and Economic Impact. SB 1130. November 2, 2011.

<sup>9</sup> s. 420.622, F.S.

<sup>10</sup> *Id.*

### ***Challenge Grant***

This state grant program includes grants of up to \$500,000 to lead agencies who have developed and implemented a local homeless assistance continuum of care plan to provide services including outreach, emergency shelter, support services, and permanent shelter in the area.<sup>11</sup> The state currently has 28 local homeless Continuum of Care planning areas that receive state aid in grant assistance. Currently, state law does not provide for a limit on or use of grant funds for grant administration costs incurred by lead agencies.

### ***Voluntary Contributions***

The voluntary contributions process provides the opportunity for citizens to make a voluntary donation by checking a box on a form when registering a vehicle or renewing a registration, as well as applying for a driver's license or replacement.<sup>12</sup>

An organization that desires to have a voluntary contribution on a form issued by the Department of Highway Safety and Motor Vehicles (DHSMV) must be specifically authorized by Florida Statutes. Section 320.023, F.S., establishes requirements for organizations seeking authorization to establish a voluntary contribution on motor vehicle registration application forms, and s. 322.081, F.S., establishes similar requirements for driver's license applications. Both sections require the following:

- A request for the particular voluntary contribution being sought, describing the proposed voluntary contribution in general terms;
- An application fee, not to exceed \$10,000 to defray the department's cost for reviewing the application and developing the voluntary contribution checkoff, if authorized. State funds may not be used to pay the application fee; and
- A marketing strategy outlining short-term and long-term marketing plans for the requested voluntary contribution and a financial analysis outlining the anticipated revenues and the planned expenditures of the revenues to be derived from the voluntary contribution.

This information must be submitted to the Department at least 90 days before the convening of the next regular session of the Legislature.

Chapter 2010-223, Laws of Florida, provides that the DHSMV may not establish any new voluntary contributions on the motor vehicle registration application form under s. 320.023, F.S., or the driver's license application form under s. 322.081, F.S., between July 1, 2010, and July 1, 2013. However, the DHSMV may establish a voluntary contribution for an organization that has:

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<sup>11</sup> *Id.*

<sup>12</sup> Currently, s. 320.02(8)(14) and (15), F.S., 320.08047, F.S., and 328.72(11) and (16), F.S., provide motor vehicle registration applicants with an opportunity to make voluntary contributions to twenty choices. Section. 322.08(7), F.S., provides driver license applicants with an opportunity to make voluntary contributions to fifteen choices.

- Submitted a request to the department before May 1, 2010, to establish a voluntary contribution on a motor vehicle registration application under s. 320.023, F.S., or a driver's license application under s. 322.081, F.S.; and
- Submitted a valid financial analysis, marketing strategy, and application fee before September 1, 2010; or
- Filed a bill during the 2010 Legislative Session to establish a voluntary contribution and have met the requirements of s. 320.023 or s.322.081, F.S.<sup>13</sup>

### **III. Effect of Proposed Changes:**

#### **Voluntary Contributions**

The bill authorizes the collection of voluntary contributions in the amount of \$1.00 to be added to the motor vehicle and driver's license fees - initial and renewal fees - to aid the homeless. The bill does not require the voluntary contributions be subject to the procedures and limitations of ss. 320.023, F.S., and 322.081, F.S., including payment of the application fee. Funds will be placed in a grants and donations trust fund for use by the office to supplement Challenge Grants and Homeless Housing Assistance Grants and to provide information on homelessness to the public.

There is currently a moratorium on the establishment of any new voluntary contributions on motor vehicle registration application and driver's license application forms which does not end until July 1, 2013. According to the DHSMV, neither the Department of Children and Family Services or the State Office of Homelessness has met the moratorium requirements set above.<sup>14</sup>

#### **Grant Programs**

The bill repeals provisions relating to the Emergency Assistance Program and replaces it with a Homelessness Prevention Grant Program. The new program will be administered by the Office on Homelessness at DCF, with the concurrence of the Council on Homelessness. The office may provide prevention grants through contracts with local lead agencies for homeless assistance continuums of care. The bill specifies the grant application process and certain preferences for applicants who can leverage additional funds and demonstrate effective programs. Eligibility for the grant program is limited to lead agencies who have implemented a local homeless assistance plan for their area. The grants are capped at \$300,000 and may be used to assist families facing the loss of their current home to pay past due rent and mortgage payments, past due utility bills, and case management. Program administrative costs are capped at 3 percent of the grant award.

The bill caps administrative costs for lead agencies administering Challenge Grants at 8 percent. Challenge Grant awards may be up to \$500,000 per lead agency.

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<sup>13</sup> Ch. 2010-223, L.O.F.

<sup>14</sup> Department of Highway Safety and Motor Vehicles. Agency Bill Analysis. SB 1130. November 15, 2011.

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

## C. Government Sector Impact:

According to DCF, the voluntary contributions from motor vehicle registrations and renewals, and original or renewal driver's licenses could provide an estimated \$20,000.

According to the DHSMV, the cost to the department to redesign the application form for motor vehicle registration and renewal is approximately \$10,000 and the cost to redesign the application form for driver's licenses is also \$10,000. Generally, the impact is offset by the \$10,000 application fee that the organization is required to pay per ss. 320.023 and 322.080, F.S.. However, this bill is written to exempt the sponsoring organization from paying the required \$10,000 application fee. Consequently, the Department would have to absorb the costs associated with implementing this voluntary contribution.

Therefore, the DHSMV would realize a \$20,000 fiscal impact associated with implementing the provisions of the bill relating to voluntary contributions.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

**Barcode 646636 by Children, Families, and Elder Affairs on January 19, 2012:**  
deletes the section of the bill related to Housing First.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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646636

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
01/20/2012	.	
	.	
	.	
	.	

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The Committee on Children, Families, and Elder Affairs (Storms) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 213 - 235

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete lines 27 - 29

and insert:

to changes made by the act; repealing s.

By Senator Storms

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1 A bill to be entitled  
 2 An act relating to homelessness; amending ss. 320.02,  
 3 322.08, and 322.18, F.S.; requiring the motor vehicle  
 4 registration form and registration renewal form, the  
 5 driver license application form, and the driver  
 6 license application form for renewal issuance or  
 7 renewal extension to include an option to make a  
 8 voluntary contribution to aid the homeless; providing  
 9 for such contributions to be deposited into the Grants  
 10 and Donations Trust Fund of the Department of Children  
 11 and Family Services and used by the State Office on  
 12 Homelessness for certain purposes; providing that  
 13 voluntary contributions for the homeless are not  
 14 income of a revenue nature for the purpose of applying  
 15 certain service charges; creating s. 414.161, F.S.;  
 16 establishing a homelessness prevention grant program;  
 17 requiring grant applicants to be ranked competitively;  
 18 providing preference for certain grant applicants;  
 19 providing eligibility requirements; providing grant  
 20 limitations and restrictions; requiring lead agencies  
 21 for local homeless assistance continuums of care to  
 22 track, monitor, and report on assisted families for a  
 23 specified period of time; amending s. 420.622, F.S.;  
 24 limiting the percentage of funding that lead agencies  
 25 may spend on administrative costs; amending s.  
 26 420.625, F.S.; deleting a cross-reference to conform  
 27 to changes made by the act; amending s. 420.6275,  
 28 F.S.; revising legislative findings relating to the  
 29 Housing First approach to homelessness; repealing s.

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30 414.16, F.S., relating to the emergency assistance  
 31 program for families that have lost shelter or face  
 32 loss of shelter due to an emergency; providing an  
 33 effective date.  
 34

35 Be It Enacted by the Legislature of the State of Florida:  
 36

37 Section 1. Paragraph (o) is added to subsection (15) of  
 38 section 320.02, Florida Statutes, to read:  
 39 320.02 Registration required; application for registration;  
 40 forms.-  
 41 (15)  
 42 (o) Notwithstanding s. 320.023, the application form for  
 43 motor vehicle registration and renewal of registration must  
 44 include language allowing a voluntary contribution of \$1 per  
 45 applicant to aid the homeless. Contributions made pursuant to  
 46 this paragraph shall be deposited into the Grants and Donations  
 47 Trust Fund of the Department of Children and Family Services and  
 48 used by the State Office on Homelessness to supplement grants  
 49 made pursuant to s. 420.622(4) and (5), provide information to  
 50 the public about homelessness in the state, and provide  
 51 literature for homeless persons seeking assistance.  
 52

53 For the purpose of applying the service charge provided in s.  
 54 215.20, contributions received under this subsection are not  
 55 income of a revenue nature.

56 Section 2. Subsection (7) of section 322.08, Florida  
 57 Statutes, is amended to read:

58 322.08 Application for license; requirements for license

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59 and identification card forms.-

60 (7) The application form for an original, renewal, or  
61 replacement driver's license or identification card shall  
62 include language permitting the following:

63 (a) A voluntary contribution of \$1 per applicant, which  
64 contribution shall be deposited into the Health Care Trust Fund  
65 for organ and tissue donor education and for maintaining the  
66 organ and tissue donor registry.

67 (b) A voluntary contribution of \$1 per applicant, which  
68 contribution shall be distributed to the Florida Council of the  
69 Blind.

70 (c) A voluntary contribution of \$2 per applicant, which  
71 shall be distributed to the Hearing Research Institute,  
72 Incorporated.

73 (d) A voluntary contribution of \$1 per applicant, which  
74 shall be distributed to the Juvenile Diabetes Foundation  
75 International.

76 (e) A voluntary contribution of \$1 per applicant, which  
77 shall be distributed to the Children's Hearing Help Fund.

78 (f) A voluntary contribution of \$1 per applicant, which  
79 shall be distributed to Family First, a nonprofit organization.

80 (g) A voluntary contribution of \$1 per applicant to Stop  
81 Heart Disease, which shall be distributed to the Florida Heart  
82 Research Institute, a nonprofit organization.

83 (h) A voluntary contribution of \$1 per applicant to Senior  
84 Vision Services, which shall be distributed to the Florida  
85 Association of Agencies Serving the Blind, Inc., a not-for-  
86 profit organization.

87 (i) A voluntary contribution of \$1 per applicant for

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88 services for persons with developmental disabilities, which  
89 shall be distributed to The Arc of Florida.

90 (j) A voluntary contribution of \$1 to the Ronald McDonald  
91 House, which shall be distributed each month to Ronald McDonald  
92 House Charities of Tampa Bay, Inc.

93 (k) Notwithstanding s. 322.081, a voluntary contribution of  
94 \$1 per applicant, which shall be distributed to the League  
95 Against Cancer/La Liga Contra el Cancer, a not-for-profit  
96 organization.

97 (l) A voluntary contribution of \$1 per applicant to Prevent  
98 Child Sexual Abuse, which shall be distributed to Lauren's Kids,  
99 Inc., a nonprofit organization.

100 (m) A voluntary contribution of \$1 per applicant, which  
101 shall be distributed to Prevent Blindness Florida, a not-for-  
102 profit organization, to prevent blindness and preserve the sight  
103 of the residents of this state.

104 (n) Notwithstanding s. 322.081, a voluntary contribution of  
105 \$1 per applicant to the state homes for veterans, to be  
106 distributed on a quarterly basis by the department to the State  
107 Homes for Veterans Trust Fund, which is administered by the  
108 Department of Veterans' Affairs.

109 (o) A voluntary contribution of \$1 per applicant to the  
110 Disabled American Veterans, Department of Florida, which shall  
111 be distributed quarterly to Disabled American Veterans,  
112 Department of Florida, a nonprofit organization.

113 (p) Notwithstanding s. 322.081, a voluntary contribution of  
114 \$1 per applicant to aid the homeless. Contributions made  
115 pursuant to this paragraph shall be deposited into the Grants  
116 and Donations Trust Fund of the Department of Children and

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 117 Family Services and used by the State Office on Homelessness to  
 118 supplement grants made pursuant to s. 420.622(4) and (5),  
 119 provide information to the public about homelessness in the  
 120 state, and provide literature for homeless persons seeking  
 121 assistance.

122  
 123 A statement providing an explanation of the purpose of the trust  
 124 funds shall also be included. For the purpose of applying the  
 125 service charge provided in s. 215.20, contributions received  
 126 under paragraphs (b)-(p) ~~(b)~~ ~~(e)~~ are not income of a revenue  
 127 nature.

128 Section 3. Subsection (9) is added to section 322.18,  
 129 Florida Statutes, to read:

130 322.18 Original applications, licenses, and renewals;  
 131 expiration of licenses; delinquent licenses.-

132 (9) The application form for a renewal issuance or renewal  
 133 extension shall include language allowing a voluntary  
 134 contribution of \$1 per applicant to aid the homeless.  
 135 Contributions made pursuant to this subsection shall be  
 136 deposited into the Grants and Donations Trust Fund of the  
 137 Department of Children and Family Services and used by the State  
 138 Office on Homelessness to supplement grants made pursuant to s.  
 139 420.622(4) and (5), provide information to the public about  
 140 homelessness in the state, and provide literature for homeless  
 141 persons seeking assistance. For the purpose of applying the  
 142 service charge provided in s. 215.20, contributions received  
 143 under this subsection are not income of a revenue nature.

144 Section 4. Section 414.161, Florida Statutes, is created to  
 145 read:

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 146 414.161 Homelessness prevention grants.-  
 147 (1) ESTABLISHMENT OF PROGRAM.-There is created a grant  
 148 program to provide emergency financial assistance to families  
 149 that face the loss of their current home due to a financial or  
 150 other crisis. The State Office on Homelessness, in consultation  
 151 with the Council on Homelessness, may accept and administer  
 152 moneys given to the Department of Children and Family Services  
 153 to annually provide homelessness prevention grants to lead  
 154 agencies for local homeless assistance continuums of care, as  
 155 recognized by the State Office on Homelessness. These moneys  
 156 shall consist of sums that the state may appropriate, as well as  
 157 money received from donations, gifts, bequests, or otherwise  
 158 from any public or private source that is intended to assist  
 159 families by preventing them from becoming homeless.

160 (2) GRANT APPLICATIONS.-Grant applications shall be ranked  
 161 competitively. Preference shall be given to applicants that  
 162 leverage additional private funds and public funds, that  
 163 demonstrate the effectiveness of their homelessness prevention  
 164 programs in keeping families housed, and that demonstrate the  
 165 commitment of other assistance and services to address family  
 166 health, employment, and education needs.

167 (3) ELIGIBILITY.-In order to qualify for a grant, a lead  
 168 agency must develop and implement a local homeless assistance  
 169 continuum of care plan for its designated catchment area. The  
 170 homelessness prevention program must be included in the  
 171 continuum of care plan.

172 (4) GRANT LIMITS.-The maximum grant amount per lead agency  
 173 may not exceed \$300,000. The grant assistance may be used to pay  
 174 past due rent or mortgage payments, past due utility costs,

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 175 provision of case management services, and program  
 176 administration costs, which may not exceed 3 percent of the  
 177 grant award. The homelessness prevention program must develop a  
 178 case plan for each family that will receive assistance,  
 179 specifying covered costs and the maximum level of assistance  
 180 that will be offered.

181 (5) PERFORMANCE.—The lead agency shall track, monitor, and  
 182 report on each family that receives assistance for at least 12  
 183 months after the last assistance is provided to the family. The  
 184 goal for the homelessness prevention program is to enable at  
 185 least 85 percent of families that receive assistance to remain  
 186 in their homes and avoid becoming homeless during the ensuing  
 187 year.

188 Section 5. Paragraph (d) is added to subsection (4) of  
 189 section 420.622, Florida Statutes, to read:

190 420.622 State Office on Homelessness; Council on  
 191 Homelessness.—

192 (4) Not less than 120 days after the effective date of this  
 193 act, the State Office on Homelessness, with the concurrence of  
 194 the Council on Homelessness, may accept and administer moneys  
 195 appropriated to it to provide "Challenge Grants" annually to  
 196 lead agencies for homeless assistance continuums of care  
 197 designated by the State Office on Homelessness. A lead agency  
 198 may be a local homeless coalition, municipal or county  
 199 government, or other public agency or private, not-for-profit  
 200 corporation. Such grants may be up to \$500,000 per lead agency.

201 (d) A lead agency may spend a maximum of 8 percent of its  
 202 funding on administrative costs.

203 Section 6. Paragraph (d) of subsection (3) of section

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 204 420.625, Florida Statutes, is amended to read:  
 205 420.625 Grant-in-aid program.—

206 (3) ESTABLISHMENT.—There is hereby established a grant-in-  
 207 aid program to help local communities in serving the needs of  
 208 the homeless through a variety of supportive services, which may  
 209 include, but are not limited to:

210 (d) Emergency financial assistance for persons who are  
 211 totally without shelter or facing loss of shelter, ~~but who are~~  
 212 ~~not eligible for such assistance under s. 414.16.~~

213 Section 7. Paragraph (a) of subsection (2) of section  
 214 420.6275, Florida Statutes, is amended to read:

215 420.6275 Housing First.—

216 (2) HOUSING FIRST METHODOLOGY.—

217 (a) The Housing First approach to homelessness differs from  
 218 traditional approaches by providing housing assistance, case  
 219 management, and support services responsive to individual or  
 220 family needs after housing is obtained. By using this approach  
 221 when appropriate, communities can significantly reduce the  
 222 amount of time that individuals and families are homeless and  
 223 prevent further episodes of homelessness. Housing First  
 224 emphasizes that social services provided to enhance individual  
 225 and family well-being can be more effective when people are in  
 226 their own home, and:

227 1. The housing is not time-limited.

228 2. The housing is not contingent on compliance with  
 229 services. Instead, participants must comply with a standard  
 230 lease agreement and are provided with the services and support  
 231 that are necessary to help them do so successfully.

232 ~~3. A background check and any rehabilitation necessary to~~

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233 ~~combat an addiction related to alcoholism or substance abuse has~~  
234 ~~been completed by the individual for whom assistance or support~~  
235 ~~services are provided.~~

236 Section 8. Section 414.16, Florida Statutes, is repealed.

237 Section 9. This act shall take effect July 1, 2012.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-19-12  
Meeting Date

Topic Homelessness Bill Number 1130 (if applicable)

Name FELY CURVA Amendment Barcode (if applicable)

Job Title Partner, Curva's Associates LLC

Address 1212 Piedmont Dr. Phone (850) 508-2256  
Street

Tallahassee FL 32312 E-mail curva@mindspring.com  
City State Zip

Speaking:  For  Against  Information

Representing FL. Coalition for the Homeless; Florida IMPACT

Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.** S-001 (10/20/11)

**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 Children, Families, and Elder Affairs Committee

BILL: SB 1342

INTRODUCER: Senator Storms

SUBJECT: Child Support Enforcement

DATE: January 18, 2012      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Daniell	Farmer	CF	<b>Favorable</b>
2.			TR	
3.			BI	
4.			BC	
5.				
6.				

**I. Summary:**

This bill amends Florida law relating to child support enforcement. Specifically, the bill:

- Provides that a default in support payments is not required in Title IV-D cases for the Department of Revenue (DOR or department) to request that payments be made through the depository;
- Provides that an obligor’s license will not be suspended (and must be reinstated if already suspended) if the obligor begins paying any delinquency by income deduction;
- Makes it discretionary for DOR to notify the Department of Highway Safety and Motor Vehicles and request suspension of an obligor’s license;
- Authorizes DOR to commence an administrative paternity proceeding based on an affidavit or written declaration provided by a caregiver that states the putative father may be the child’s biological father;
- Requires that a request by a parent from whom support is being sought to informally discuss a proposed administrative support order with DOR be made in writing within 15 days after the date of the mailing of the proposed administrative support order;
- Eliminates the requirement for DOR to provide certain notices by registered or certified mail, requiring regular mail instead;
- Authorizes the department to send notices to a garnishee by secure e-mail or facsimile upon consent by the garnishee;
- Requires the Chief Financial Officer and the department to work cooperatively to establish an automated method for identifying persons who are doing business with the state and who owe overdue support so that support payments may be withheld by the state;
- Makes changes related to the use of unclaimed property for past due support; and

- Authorizes DOR to place an administrative lien on certain claims, judgments, and property.

This bill amends the following sections of the Florida Statutes: 61.13, 61.13016, 322.058, 409.256, 409.2563, 409.25656, 409.25658, and 409.2575. This bill reenacts section 409.256(7), Florida Statutes.

## II. Present Situation:<sup>1</sup>

Child support enforcement is a federally funded program that has been administered by the Department of Revenue (DOR or department) since 1994. A “Title IV-D case” is defined as any case in which the child support enforcement agency is enforcing the child support order pursuant to Title IV-D of the Social Security Act. The department provides services under the federally required program in 65 counties and through contracts in two counties.<sup>2</sup>

The department is responsible for some case-processing activities including opening and closing cases; collecting and maintaining case, location, and financial data; and receiving and responding to verbal and written inquiries. In 2009, 1.1 million cases were maintained by DOR. In FY 08-09, DOR had a 7.3-percent increase in new service requests and 6.6-percent increase in reopened cases.

To remain eligible for the Temporary Assistance for Needy Families (TANF) Block Grant, Florida must have a federally compliant child support program. The program must contain the following services:

- Paternity establishment;
- Support order establishment;
- Support order review and modification;
- Location of parents, employers, assets;
- Payment collection and disbursement; and
- Order enforcement.

The department establishes the initial child support order and modifies existing orders when a family’s circumstances change. During FY 08-09, DOR processed \$48 million in child support collections on support orders established in that fiscal year.

Some child support orders are established by DOR administratively. Section 409.2563, F.S., was created to provide the department with an alternative procedure for establishing child support obligations in Title IV-D cases in a fair and expeditious manner when there is no court order of support. Prior to beginning the administrative process, DOR screens cases for complex circumstances and, if identified, it will proceed with those cases judicially. In order to establish a support order administratively, the department must provide notice to both the parent from whom

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<sup>1</sup> Some of the information contained in the Present Situation of this bill analysis is replicated from the professional staff analysis for CS/CS/SB 694 by the Committee on Judiciary (Mar. 29, 2010), *available at* <http://archive.flsenate.gov/data/session/2010/Senate/bills/analysis/pdf/2010s0694.ju.pdf> (last visited Jan. 15, 2012).

<sup>2</sup> Miami-Dade County cases are handled by the state attorney’s office, and Manatee County cases are handled by the clerk of court.

support is not being sought and to the parent from whom support is being sought.<sup>3</sup> After providing notice, the department must calculate the proposed support obligation based on the financial affidavits provided by the parties or, if the parties did not provide the required affidavits, then the department may rely on any reliable source for the information. If there is no reliable source, DOR may calculate the proposed support obligation based on the assumption that the parent had an earning capacity equal to the federal minimum wage during the applicable period.<sup>4</sup> The department must then send copies of the proposed administrative support order to both parents, along with a notice of rights to the parent from whom support is being sought. This notice of rights must inform the parent from whom support is being sought that within 10 days from the date of the mailing the parent may contact DOR, at the address or telephone number in the notice, to informally discuss the proposed administrative order.<sup>5</sup> If a request for an administrative hearing in response to the proposed order is not made timely, the department renders a final order that incorporates the terms of the proposed order.<sup>6</sup> If the parent from whom support is being sought files a timely request for hearing or the department determines that an evidentiary hearing is appropriate, the department shall refer the proceeding to the Division of Administrative Hearings. In 2009, the department established over 12,000 administrative support orders.

Child support orders are enforced by DOR, as well as the receipt and disbursement of collections. In 2009, over \$1.41 billion was collected and distributed, with 98 percent of collections distributed within 24 hours. Of all parents in the DOR caseload, fewer than 30 percent pay their full child support obligation on a monthly basis. In addition, DOR initiated enforcement actions on 92 percent of the support collections eventually received.

The department has several methods for trying to collect past due child support. One method available to DOR to try and enforce a child support order is to suspend the obligor's driver's license. Pursuant to s. 61.13016, F.S., a person (the obligor) who is 15 days delinquent in paying child support may have his or her driver's license suspended after notice and an opportunity for a hearing in circuit court. The obligor may avoid suspension by paying the full amount of the delinquency, entering into a written agreement with DOR to pay the past due amount, or filing a petition in circuit court to contest suspension.<sup>7</sup> Although not provided for in statute, DOR also allows an obligor to begin paying a delinquent support order by income deduction in order to avoid license suspension. According to DOR, income deduction is the most reliable way to obtain child support payments.<sup>8</sup>

If a person has a support obligation which is subject to enforcement by the department as the state Title IV-D program, the department can notify all persons who have credits or personal property, including wages, under their control that belong to the obligor that they may not transfer any of the credits or personal property, up to the amount listed in the notice, without

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<sup>3</sup> Section 409.2563(4), F.S.

<sup>4</sup> Section 409.2563(5)(a), F.S.

<sup>5</sup> Section 409.2563(5)(c), F.S.

<sup>6</sup> In contested cases, there is a formal hearing before the Division of Administrative Hearings.

<sup>7</sup> Section 61.13016(1)(c), F.S.

<sup>8</sup> E-mail from Debbie Thomas, Dep't of Revenue, to Senate professional staff (Dec. 12, 2011) (on file with the Senate Committee on Children, Families, and Elder Affairs).

DOR consent.<sup>9</sup> Additionally, the department shall provide notice to the Chief Financial Officer (CFO) identifying the obligor and the amount of support outstanding. The CFO must then withhold all payments to any obligor who provides commodities or services to the state, leases real property to the state, or constructs a public building or public work for the state, and DOR may levy upon the withheld payments.<sup>10</sup>

Another way DOR may collect past due support is through the use of unclaimed property. The department, in cooperation with the Department of Financial Services (DFS), shall identify persons owing support who are presumed to have unclaimed property held by DFS. Before paying an obligor's approved claim for unclaimed property, DFS must notify DOR that the claim was approved, and DOR shall immediately send a notice by certified mail to the obligor advising the obligor of the department's intent to intercept the approved claim up to the amount of the past due support.<sup>11</sup>

### **III. Effect of Proposed Changes:**

This bill amends Florida law relating to child support enforcement. Section 61.13, F.S., is amended to provide that in Title IV-D cases, the Department of Revenue (DOR or department) does not need to allege a default in support payments, and a default is not required, in order for the department to request that child support payments be made through the depository. If such a request is made, the depository shall notify all parties that future payments in Title IV-D cases be made to the State Disbursement Unit.

The bill adds a way that an obligor can avoid having his or her license suspended. Specifically, if an obligor begins paying any delinquency by income deduction, the obligor's license will not be suspended (and it must be reinstated if it had already been suspended). Additionally, the bill makes it discretionary for DOR to notify the Department of Highway Safety and Motor Vehicles to suspend an obligor's license if the delinquency is not paid in full.

The bill amends s. 409.256, F.S., effective July 1, 2012, authorizing DOR to commence a paternity proceeding if a caregiver states in an affidavit that the putative father is or may be the child's biological father. Under current law, DOR may commence a proceeding only if the child's mother or a putative father states in an affidavit that the putative father is or may be the child's biological father.

Section 409.2563(5), F.S., is amended to require that requests by a parent from whom support is being sought for an informal discussion with DOR about the proposed administrative support order be made in writing within 15 days after the date of mailing the proposed support order.

The bill eliminates the requirement for DOR to serve garnishment notices by registered mail, requiring instead that the department serve notice on garnishees and obligors by regular mail. If the garnishee provides written consent, the department may send notices to the garnishee by secure e-mail or facsimile. The bill requires the Chief Financial Officer and DOR to work cooperatively to establish an automated method for identifying persons who are doing business

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<sup>9</sup> Section 409.25656(1), F.S.

<sup>10</sup> Section 409.25656(10), F.S.

<sup>11</sup> Section 409.25658, F.S.

with the state and who owe past due support so that the support payments may be withheld by the state.

Under current law, DOR provides to the CFO a listing of obligors for whom warrants are outstanding. The CFO then withholds all payments to any obligor doing business with the state and DOR may levy upon the withheld payments. The change made by this bill essentially reverses this method, so that the CFO is disclosing to the department a file of individuals to whom the state pays money. This change may mean that information on persons who do not owe past due child support may also be transmitted to DOR.

The bill requires DOR, in cooperation with the Department of Financial Services (DFS), to identify persons who owe past due support collected by the department who are presumed to have unclaimed property held by DFS. If a claim for unclaimed property is approved by DFS, the department shall send a notice by certified mail to the obligor at the address provided by the obligor to DFS advising the obligor of the department's intent to intercept the approved claim. The DFS must retain custody of the property until a final order has been entered and any appeals have concluded or, if the intercept is uncontested, until notified by the department. If an obligor does not request a hearing, DOR must notify DFS, electronically or in writing, to transfer the property to the department.

The bill authorizes DOR to place an administrative lien for unpaid support on a motor vehicle or vessel, even if owned free and clear by the obligor, and on claims, settlement proceeds, and judgments. The department must notify the obligor of the intent to place a lien by regular mail sent to the obligor's address on file with the depository. The notice must state the amount of past due support owed and inform the obligor of the right to contest the lien at an administrative hearing.

Finally, the bill reenacts s. 409.256, F.S., in order to incorporate the changes made by the bill to s. 322.058, F.S.

The bill is effective upon becoming a law, except as otherwise provided in the act.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

**B. Private Sector Impact:**

This bill authorizes the Department of Revenue (DOR or the department) to place an administrative lien for unpaid support on claims, settlements, and judgments, as well as a motor vehicle or vessel that is owned free and clear by the obligor. This change in the law may have a financial impact on obligors who have certain claims, settlements, or judgments and are expecting to receive money in relation to the claim, settlement, or judgment, but also owe unpaid or delinquent support.

**C. Government Sector Impact:**

According to the department, its procedures will need to be modified to implement the changes made by this bill. However, the department expects that any operational impact of the bill will be insignificant.<sup>12</sup>

**VI. Technical Deficiencies:**

Section 409.25658, F.S., is amended so that notice of intent to intercept an approved claim for unclaimed property is sent to the obligor by *certified* mail to the address provided by the obligor to the Department of Financial Services (see lines 316-322). According to the Department of Revenue's (DOR or department) bill analysis, the notice of intent is meant to be mailed to the obligor by *regular* mail.<sup>13</sup> Other sections of the bill also eliminate the requirement for the department to mail notices via registered or certified mail, instead only requiring regular mail. It appears that the intent of the bill is to require notice be sent to an obligor via regular mail when the obligor's unclaimed property is to be used for past due child support. The Legislature may wish to amend line 320 of the bill to address this oversight.

The bill amends s. 409.2575, F.S., allowing the department to cause a lien for unpaid or delinquent support be placed on a "claim, settlement, or judgment." It is unclear what type of claim is being referenced. However, according to DOR's bill analysis, this section is amended "to authorize the Department of Revenue to place an administrative lien for unpaid support on personal injury claims, settlement proceeds, and judgments."<sup>14</sup> If the intent of the bill is to allow an administrative lien be placed on personal injury claims, the Legislature may wish to amend the bill on line 351 to make the intent clear.

**VII. Related Issues:**

None.

<sup>12</sup> Dep't of Revenue, *2012 Bill Analysis, HB 935*, 5 (Dec. 16, 2011) (on file with the Senate Committee on Children, Families, and Elder Affairs). House bill 935 is substantially similar to SB 1342.

<sup>13</sup> *Id.* at 4.

<sup>14</sup> *Id.*

**VIII. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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By Senator Storms

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1 A bill to be entitled  
 2 An act relating to child support enforcement; amending  
 3 s. 61.13, F.S.; providing that, for IV-D cases, an  
 4 affidavit filed with a child support depository  
 5 requesting that child support payments be made through  
 6 the depository need not allege a default in support  
 7 payments; amending s. 61.13016, F.S.; requiring the  
 8 Department of Highway Safety and Motor Vehicles to  
 9 suspend an obligor's driver license unless the obligor  
 10 begins paying child support by income deduction;  
 11 amending s. 322.058, F.S.; requiring the Department of  
 12 Highway Safety and Motor Vehicles to reinstate an  
 13 obligor's driving privileges if the obligor is paying  
 14 his or her support obligation by income deduction  
 15 order; amending s. 409.256, F.S.; adding a caregiver  
 16 to the list of persons who may provide a statement  
 17 regarding a putative father; amending s. 409.2563,  
 18 F.S.; providing for the filing of a written request to  
 19 informally discuss a proposed administrative support  
 20 order with the Department of Revenue; amending s.  
 21 409.25656, F.S.; providing that notice of a levy upon  
 22 property may be delivered by regular mail rather than  
 23 by registered mail; providing for notices to be sent  
 24 to a garnishee by e-mail or facsimile; requiring the  
 25 Chief Financial Officer to work cooperatively with the  
 26 department to establish an automated method for  
 27 periodically disclosing to the department an  
 28 electronic file of individuals to whom the state pays  
 29 money for goods or services or who lease real property

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

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30 to the state; requiring the department to use the  
 31 collected data to identify individuals who owe past  
 32 due or overdue child support and to garnish payments  
 33 owed to such individuals by the state; amending s.  
 34 409.25658, F.S.; revising provisions relating to  
 35 unclaimed property to be transferred to the Department  
 36 of Revenue to pay for past due child support; amending  
 37 s. 409.2575, F.S.; providing that the Department of  
 38 Revenue rather than the director of the state IV-D  
 39 program may cause a lien to be placed on a motor  
 40 vehicle and vessel; reenacting s. 409.256(7), F.S.,  
 41 relating to administrative procedures to establish  
 42 paternity, to incorporate the amendments made to s.  
 43 322.058, F.S., in a reference thereto; providing  
 44 effective dates.  
 45

46 Be It Enacted by the Legislature of the State of Florida:

47  
 48 Section 1. Paragraph (d) of subsection (1) of section  
 49 61.13, Florida Statutes, is amended to read:

50 61.13 Support of children; parenting and time-sharing;  
 51 powers of court.—

52 (1)

53 (d)1. All child support orders shall provide the full name  
 54 and date of birth of each minor child who is the subject of the  
 55 child support order.

56 2. If both parties request and the court finds that it is  
 57 in the best interest of the child, support payments need not be  
 58 subject to immediate income deduction. Support orders that are

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

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 59 not subject to immediate income deduction may be directed  
 60 through the depository under s. 61.181 or made payable directly  
 61 to the obligee. Payments made by immediate income deduction  
 62 shall be made to the State Disbursement Unit. The court shall  
 63 provide a copy of the order to the depository.

64 3. For support orders payable directly to the obligee, any  
 65 party, or the department in a IV-D case, may subsequently file  
 66 an affidavit with the depository alleging a default in payment  
 67 of child support and stating that the party wishes to require  
 68 that payments be made through the depository. For IV-D cases,  
 69 the affidavit need not allege a default in support payments and  
 70 default is not required. The party shall provide copies of the  
 71 affidavit to the court and to each other party. Fifteen days  
 72 after receipt of the affidavit, the depository shall notify all  
 73 parties that future payments shall be paid through the  
 74 depository, except that payments in Title IV-D cases and income  
 75 deduction payments shall be made to the State Disbursement Unit.

76 Section 2. Subsections (1) and (3) of section 61.13016,  
 77 Florida Statutes, are amended to read:

78 61.13016 Suspension of driver's licenses and motor vehicle  
 79 registrations.-

80 (1) The driver's license and motor vehicle registration of  
 81 a support obligor who is delinquent in payment or who has failed  
 82 to comply with subpoenas or a similar order to appear or show  
 83 cause relating to paternity or support proceedings may be  
 84 suspended. When an obligor is 15 days delinquent making a  
 85 payment in support or failure to comply with a subpoena, order  
 86 to appear, order to show cause, or similar order in IV-D cases,  
 87 the Title IV-D agency may provide notice to the obligor of the

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 88 delinquency or failure to comply with a subpoena, order to  
 89 appear, order to show cause, or similar order and the intent to  
 90 suspend by regular United States mail that is posted to the  
 91 obligor's last address of record with the Department of Highway  
 92 Safety and Motor Vehicles. When an obligor is 15 days delinquent  
 93 in making a payment in support in non-IV-D cases, and upon the  
 94 request of the obligee, the depository or the clerk of the court  
 95 must provide notice to the obligor of the delinquency and the  
 96 intent to suspend by regular United States mail that is posted  
 97 to the obligor's last address of record with the Department of  
 98 Highway Safety and Motor Vehicles. In either case, the notice  
 99 must state:

100 (a) The terms of the order creating the support obligation;

101 (b) The period of the delinquency and the total amount of  
 102 the delinquency as of the date of the notice or describe the  
 103 subpoena, order to appear, order to show cause, or other similar  
 104 order ~~that which~~ has not been complied with;

105 (c) That notification must ~~will~~ be given to the Department  
 106 of Highway Safety and Motor Vehicles to suspend the obligor's  
 107 driver's license and motor vehicle registration unless, within  
 108 20 days after the date the notice is mailed, the obligor:

109 1.a. Pays the delinquency in full and any other costs and  
 110 fees accrued between the date of the notice and the date the  
 111 delinquency is paid;

112 b. Enters into a written agreement for payment with the  
 113 obligee in non-IV-D cases or with the Title IV-D agency in IV-D  
 114 cases; or in IV-D cases, complies with a subpoena or order to  
 115 appear, order to show cause, or a similar order; ~~or~~

116 c. Files a petition with the circuit court to contest the

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117 delinquency action; ~~or and~~

118 d. Begins paying by income deduction; and

119 2. Pays any applicable delinquency fees.

120

121 If the obligor in non-IV-D cases enters into a written agreement  
122 for payment before the expiration of the 20-day period, the  
123 obligor must provide a copy of the signed written agreement to  
124 the depository or the clerk of the court.

125 (3) If the obligor does not, within 20 days after the  
126 mailing date on the notice, pay the delinquency; ~~7~~ enter into a  
127 written payment agreement; ~~7~~ comply with the subpoena, order to  
128 appear, order to show cause, or other similar order; begin  
129 paying by income deduction; ~~7~~ or file a motion to contest, the  
130 Title IV-D agency in IV-D cases, or the depository or clerk of  
131 the court in non-IV-D cases, may ~~shall~~ file the notice with the  
132 Department of Highway Safety and Motor Vehicles and request the  
133 suspension of the obligor's driver's license and motor vehicle  
134 registration in accordance with s. 322.058.

135 Section 3. Subsections (2) and (3) of section 322.058,  
136 Florida Statutes, are amended to read:

137 322.058 Suspension of driving privileges due to support  
138 delinquency; reinstatement.—

139 (2) The department must reinstate the driving privilege and  
140 allow registration of a motor vehicle when the Title IV-D agency  
141 in IV-D cases or the depository or the clerk of the court in  
142 non-IV-D cases provides to the department an affidavit stating  
143 that:

144 (a) The person has paid the delinquency;

145 (b) The person has reached a written agreement for payment

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146 with the Title IV-D agency or the obligee in non-IV-D cases;

147 (c) A court has entered an order granting relief to the  
148 obligor ordering the reinstatement of the license and motor  
149 vehicle registration; ~~or~~

150 (d) The person has complied with the subpoena, order to  
151 appear, order to show cause, or similar order; or

152 (e) The obligor is paying by income deduction.

153 (3) The department is ~~shall~~ not ~~be held~~ liable for any  
154 license or vehicle registration suspension resulting from the  
155 discharge of its duties under this section.

156 Section 4. Effective July 1, 2012, paragraph (a) of  
157 subsection (2) of section 409.256, Florida Statutes, is amended  
158 to read:

159 409.256 Administrative proceeding to establish paternity or  
160 paternity and child support; order to appear for genetic  
161 testing.—

162 (2) JURISDICTION; LOCATION OF HEARINGS; RIGHT OF ACCESS TO  
163 THE COURTS.—

164 (a) The department may commence a paternity proceeding or a  
165 paternity and child support proceeding as provided in subsection  
166 (4) if:

167 1. The child's paternity has not been established.

168 2. No one is named as the father on the child's birth  
169 certificate or the person named as the father is the putative  
170 father named in an affidavit or a written declaration as  
171 provided in subparagraph 5.

172 3. The child's mother was unmarried when the child was  
173 conceived and born.

174 4. The department is providing services under Title IV-D.

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175 5. The child's mother or caregiver or a putative father has  
 176 stated in an affidavit, or in a written declaration as provided  
 177 in s. 92.525(2), that the putative father is or may be the  
 178 child's biological father. The affidavit or written declaration  
 179 must set forth the factual basis for the allegation of paternity  
 180 as provided in s. 742.12(2).

181 Section 5. Effective July 1, 2012, paragraph (c) of  
 182 subsection (5) of section 409.2563, Florida Statutes, is amended  
 183 to read:

184 409.2563 Administrative establishment of child support  
 185 obligations.—

186 (5) PROPOSED ADMINISTRATIVE SUPPORT ORDER.—

187 (c) The department shall provide a notice of rights with  
 188 the proposed administrative support order, which notice must  
 189 inform the parent from whom support is being sought that:

190 1. The parent from whom support is being sought may, within  
 191 20 days after the date of mailing or other service of the  
 192 proposed administrative support order, request a hearing by  
 193 filing a written request for hearing in a form and manner  
 194 specified by the department;

195 2. If the parent from whom support is being sought files a  
 196 timely request for a hearing, the case shall be transferred to  
 197 the Division of Administrative Hearings, which shall conduct  
 198 further proceedings and may enter an administrative support  
 199 order;

200 3. A parent from whom support is being sought who fails to  
 201 file a timely request for a hearing shall be deemed to have  
 202 waived the right to a hearing, and the department may render an  
 203 administrative support order pursuant to paragraph (7) (b);

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204 4. The parent from whom support is being sought may consent  
 205 in writing to entry of an administrative support order without a  
 206 hearing;

207 5. The parent from whom support is being sought may, within  
 208 15 ~~40~~ days after the date of mailing or other service of the  
 209 proposed administrative support order, request to informally  
 210 discuss the proposed administrative support order by filing a  
 211 written request to the department ~~contact a department~~  
 212 ~~representative,~~ at the address ~~or telephone number~~ specified in  
 213 the notice, ~~to informally discuss the proposed administrative~~  
 214 ~~support order~~ and, if informal discussions are requested timely,  
 215 the time for requesting a hearing will be extended until 10 days  
 216 after the department notifies the parent that the informal  
 217 discussions have been concluded; and

218 6. If an administrative support order that establishes a  
 219 parent's support obligation is rendered, whether after a hearing  
 220 or without a hearing, the department may enforce the  
 221 administrative support order by any lawful means.

222 Section 6. Subsections (3), (4), and (5), paragraph (b) of  
 223 subsection (7), and subsections (10) and (11) of section  
 224 409.25656, Florida Statutes, are amended to read:

225 409.25656 Garnishment.—

226 (3) During the last 30 days of the 60-day period set forth  
 227 in subsection (1), the executive director or his or her designee  
 228 may levy upon such credits, personal property, or debts. The  
 229 levy must be accomplished by delivery of a notice of levy by  
 230 regular ~~registered~~ mail, upon receipt of which the person  
 231 possessing the credits, other personal property, or debts shall  
 232 transfer them to the department or pay to the department the

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233 amount owed by the obligor. If the department levies upon  
 234 securities and the value of the securities is less than the  
 235 total amount of past due or overdue support, the person who  
 236 possesses or controls the securities shall liquidate the  
 237 securities in a commercially reasonable manner. After  
 238 liquidation, the person shall transfer to the department the  
 239 proceeds, less any applicable commissions or fees, or both,  
 240 which are charged in the normal course of business. If the value  
 241 of the securities exceeds the total amount of past due or  
 242 overdue support, the obligor may, within 7 days after receipt of  
 243 the department's notice of levy, instruct the person who  
 244 possesses or controls the securities which securities are to be  
 245 sold to satisfy the obligation for past due or overdue support.  
 246 If the obligor does not provide instructions for liquidation,  
 247 the person who possesses or controls the securities shall  
 248 liquidate the securities in a commercially reasonable manner in  
 249 an amount sufficient to cover the obligation for past due or  
 250 overdue support and any applicable commissions or fees, or both,  
 251 which are charged in the normal course of business, beginning  
 252 with the securities purchased most recently. After liquidation,  
 253 the person who possesses or controls the securities shall  
 254 transfer to the department the total amount of past due or  
 255 overdue support.

256 (4) A notice that is delivered under this section is  
 257 effective at the time of delivery against all credits, other  
 258 personal property, or debts of the obligor which are not at the  
 259 time of such notice subject to an attachment, garnishment, or  
 260 execution issued through a judicial process. Upon the  
 261 garnishee's written consent the department may send notices to

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262 the garnishee by secure e-mail or facsimile.

263 (5) The department ~~may is authorized to~~ bring an action in  
 264 circuit court for an order compelling compliance with any notice  
 265 issued under this section.

266 (7)

267 (b) Not less than 30 days before the day of the levy, the  
 268 notice of intent to levy required under paragraph (a) must be  
 269 given in person or sent by regular certified or registered mail  
 270 to the person's last known address.

271 (10) The Chief Financial Officer shall work cooperatively  
 272 with the department to establish an automated method for  
 273 periodically disclosing to the department an electronic file of  
 274 individuals to whom the state pays money for goods or services  
 275 or who lease real property to the state. The department shall  
 276 use the data provided to identify individuals who owe past due  
 277 or overdue support and may garnish payments owed to such  
 278 individuals by the state as provided in this section. The  
 279 ~~department shall provide notice to the Chief Financial Officer,~~  
 280 ~~in electronic or other form specified by the Chief Financial~~  
 281 ~~Officer, listing the obligors for whom warrants are outstanding.~~  
 282 ~~Pursuant to subsection (1), the Chief Financial Officer shall,~~  
 283 ~~upon notice from the department, withhold all payments to any~~  
 284 ~~obligor who provides commodities or services to the state,~~  
 285 ~~leases real property to the state, or constructs a public~~  
 286 ~~building or public work for the state. The department may levy~~  
 287 ~~upon the withheld payments in accordance with subsection (3).~~  
 288 Section 215.422 does not apply from the date the notice is filed  
 289 with the Chief Financial Officer until the date the department  
 290 notifies the Chief Financial Officer of its consent to make

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 291 payment to the person or 60 days after receipt of the  
 292 department's notice in accordance with subsection (1), whichever  
 293 occurs earlier.

294 (11) The Department of Revenue ~~may has the authority to~~  
 295 adopt rules to administer ~~implement~~ this section.

296 Section 7. Section 409.25658, Florida Statutes, is amended  
 297 to read:

298 409.25658 Use of unclaimed property for past due support.—

299 (1) In a joint effort to facilitate the collection and  
 300 payment of past due support, the Department of Revenue, in  
 301 cooperation with the Department of Financial Services, shall  
 302 identify persons owing support collected by the department  
 303 ~~through a court~~ who are presumed to have unclaimed property held  
 304 by the Department of Financial Services.

305 (2) The department shall periodically provide the  
 306 Department of Financial Services with an electronic file of  
 307 support obligors who owe past due support. The Department of  
 308 Financial Services shall conduct a data match of the file  
 309 against all apparent owners of unclaimed property under chapter  
 310 717 and provide the resulting match list to the department.

311 (3) Upon receipt of the data match list, the department  
 312 shall provide ~~to~~ the Department of Financial Services with the  
 313 obligor's last known address. The Department of Financial  
 314 Services shall follow the notification procedures under s.  
 315 717.118.

316 (4) ~~Before~~ Prior to paying an obligor's approved claim, the  
 317 Department of Financial Services shall notify the department  
 318 that the ~~such~~ claim has been approved. Upon confirmation that  
 319 the Department of Financial Services has approved the claim, the

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 320 department shall immediately send a notice by certified mail to  
 321 the obligor at the address provided by the obligor to the  
 322 Department of Financial Services, with a copy to the Department  
 323 of Financial Services, advising the obligor of the department's  
 324 intent to intercept the approved claim up to the amount of the  
 325 past due support, and informing the obligor of the obligor's  
 326 right to request a hearing under chapter 120. The Department of  
 327 Financial Services shall retain custody of the property until a  
 328 final order has been entered and any appeals thereon have been  
 329 concluded, or, if the intercept is uncontested, until notified  
 330 by the department. If the obligor fails to request a hearing,  
 331 the department shall notify ~~enter a final order instructing~~ the  
 332 Department of Financial Services, electronically or in writing,  
 333 to transfer to the department the property in the amount stated  
 334 in the notice or electronic file ~~final order~~. Upon ~~such~~  
 335 transfer, the Department of Financial Services shall be released  
 336 from further liability related to the transferred property.

337 (5) ~~The provisions of~~ This section provides ~~provide~~ a  
 338 supplemental remedy, and the department may use this remedy in  
 339 conjunction with any other method of collecting support.

340 Section 8. Section 409.2575, Florida Statutes, is amended  
 341 to read:

342 409.2575 Administrative liens ~~on motor vehicles and~~  
 343 ~~vessels~~.—

344 (1) The department ~~director of the state IV-D program, or~~  
 345 ~~the director's designee~~, may cause a lien for unpaid and  
 346 delinquent support to be placed upon motor vehicles, as defined  
 347 in chapter 320, and upon vessels, as defined in chapter 327,  
 348 which ~~that~~ are registered in the name of an obligor who is

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 349 delinquent in support payments, ~~if the title to the property is~~  
 350 ~~held by a lienholder,~~ in the manner provided in chapter 319 or  
 351 chapter 328, and upon a claim, settlement, or judgment that may  
 352 result in payment to the obligor. The department shall notify  
 353 the obligor of the intent to place a lien by regular mail sent  
 354 to the obligor's address of record on file with the depository.  
 355 The notice must state the amount of past due support owed and  
 356 inform the obligor of the right to contest the lien at an  
 357 administrative hearing as provided by chapter 120. Notice of  
 358 lien shall not be mailed unless the delinquency in support  
 359 exceeds \$600.

(2) If the first lienholder fails, neglects, or refuses to  
 360 forward the certificate of title to the appropriate department  
 361 as requested pursuant to s. 319.24 or s. 328.15, the department  
 362 director of the IV-D program, or the director's designee, may  
 363 apply to the circuit court for an order to enforce the  
 364 requirements of s. 319.24 or s. 328.15, whichever applies.

Section 9. For the purpose of incorporating the amendment  
 365 made by this act to section 322.058, Florida Statutes, in a  
 366 reference thereto, subsection (7) of section 409.256, Florida  
 367 Statutes, is reenacted to read:

409.256 Administrative proceeding to establish paternity or  
 370 paternity and child support; order to appear for genetic  
 371 testing.—  
 372 testing.—

(7) FAILURE OR REFUSAL TO SUBMIT TO GENETIC TESTING.—If a  
 373 person who is served with an order to appear for genetic testing  
 374 fails to appear without good cause or refuses to submit to  
 375 testing without good cause, the department may take one or more  
 376 of the following actions:  
 377

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 378 (a) Commence a proceeding to suspend the driver's license  
 379 and motor vehicle registration of the person ordered to appear,  
 380 as provided in s. 61.13016;  
 381 (b) Impose an administrative fine against the person  
 382 ordered to appear in the amount of \$500; or  
 383 (c) File a petition in circuit court to establish  
 384 paternity, obtain a support order for the child, and seek  
 385 reimbursement from the person ordered to appear for the full  
 386 cost of genetic testing incurred by the department.  
 387  
 388 As provided in s. 322.058(2), a suspended driver's license and  
 389 motor vehicle registration may be reinstated when the person  
 390 ordered to appear complies with the order to appear for genetic  
 391 testing. The department may collect an administrative fine  
 392 imposed under this subsection by using civil remedies or other  
 393 statutory means available to the department for collecting  
 394 support.  
 395 Section 10. Except as otherwise expressly provided in this  
 396 act, this act shall take effect upon becoming a law.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

January 19, 2012

*Meeting Date*

Topic Child Support Enforcement

Bill Number SB 1342  
*(if applicable)*

Name Tom Mato

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Child Support Program Deputy Director

Address P.O. 5906  
*Street*

Phone (850) 617-8003

Tallahassee FL 32314  
*City State Zip*

E-mail matot@dor.state.fl.us

Speaking:  For  Against  Information

Representing Department of Revenue, Child Support Program

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

***This form is part of the public record for this meeting.***

S-001 (10/20/11)

# CourtSmart Tag Report

**Room:** SB 401  
**Caption:** Senate Committee on Children, Families, and Elder Affairs

**Case:**

**Type:**  
**Judge:**

**Started:** 1/19/2012 10:18:47 AM

**Ends:** 1/19/2012 12:14:29 PM

**Length:** 01:55:43

10:18:52 AM Roll Call  
10:19:07 AM Senator Storms opening remarks  
10:22:21 AM SB 1130, Homelessness (Senator Storms)  
10:23:18 AM SB 1130 amendment (barcode 646636) by Senator Storms  
10:24:31 AM SB 1130, Homelessness (Public Testimony)  
10:24:48 AM SB 1130, Homelessness vote  
10:25:07 AM SB 1342, Child Support Enforcement (Senator Storms)  
10:27:37 AM Senator Detert question  
10:28:01 AM Senator Storms response  
10:28:55 AM Tom Mato, Deputy Director Child Support Program -- Department of Revenue remarks  
10:30:12 AM Senator Detert remarks  
10:30:32 AM Senator Gibson questions  
10:31:23 AM Tom Mato, Deputy Director Child Support Program -- Department of Revenue response  
10:33:00 AM Senator Gibson question  
10:33:35 AM Tom Mato, Deputy Director Child Support Program -- Department of Revenue response  
10:33:58 AM Senator Storms and Senator Gibson remarks  
10:34:29 AM Senator Storms response  
10:35:11 AM Senator Gibson remarks  
10:36:32 AM SB 1342, Child Support Enforcement vote  
10:36:52 AM Senator Storms remarks  
10:37:36 AM SPB 7176, Assisted Living Facilities (CFEA)  
10:39:10 AM Ashley Daniell, CFEA Staff Attorney, SPB 7176 -- Assisted Living Facilities  
10:42:42 AM Senator Storms remarks  
10:44:30 AM Senator Detert question  
10:44:50 AM Ashley Daniell, CFEA Staff Attorney, SPB 7176 -- Assisted Living Facilities response  
10:45:07 AM Senator Storms remarks  
10:45:23 AM Ashley Daniell, CFEA Staff Attorney, SPB 7176 -- Assisted Living Facilities  
10:47:24 AM Senator Gibson question  
10:47:49 AM Ashley Daniell, CFEA Staff Attorney, SPB 7176 -- Assisted Living Facilities response  
10:48:02 AM Senator Storms remarks  
10:50:03 AM Senator Gibson question  
10:50:49 AM Ashley Daniell, CFEA Staff Attorney, SPB 7176 -- Assisted Living Facilities response  
10:51:06 AM Senator Gibson question  
10:51:27 AM Ashley Daniell, CFEA Staff Attorney, SPB 7176 -- Assisted Living Facilities response  
10:52:11 AM SPB 7176, Assisted Living Facilities (Public Testimony)  
10:55:55 AM Senator Rich remarks  
10:57:17 AM Senator Storms remarks  
10:58:56 AM SPB 7176, Assisted Living Facilities vote  
10:59:25 AM Senator Rich recognition  
11:00:20 AM Senator Latvala remarks  
11:00:34 AM SPB 7166, Child Protection (CFEA)  
11:01:41 AM Carol Preston, CFEA Chief Legislative Analyst, SPB 7166 -- Child Protection  
11:02:58 AM Senator Storms remarks  
11:03:50 AM Carol Preston, CFEA Chief Legislative Analyst, SPB 7166 -- Child Protection  
11:09:02 AM Senator Storms remarks  
11:11:20 AM SPB 7166, Child Protection vote  
11:11:37 AM SPB 7048, Department of Children and Family Services (CFEA)  
11:12:03 AM Carol Preston, CFEA Chief Legislative Analyst, SPB 7048 -- Department of Children and Family Services  
11:13:14 AM Senator Storms remarks  
11:13:29 AM Senator Detert question  
11:14:01 AM Senator Latvala question  
11:14:13 AM Senator Storms response

11:14:38 AM Senator Latvala remarks  
11:14:54 AM John Cooper, Assistant Secretary for Operations -- Department of Children and Families response  
11:15:13 AM Senator Detert question  
11:15:26 AM John Cooper, Assistant Secretary for Operations -- Department of Children and Families response  
11:15:39 AM Senator Rich question  
11:16:22 AM John Cooper, Assistant Secretary for Operations -- Department of Children and Families response  
11:17:25 AM Senator Rich remarks  
11:17:37 AM John Cooper, Assistant Secretary for Operations -- Department of Children and Families response  
11:17:47 AM Senator Rich question  
11:17:55 AM John Cooper, Assistant Secretary for Operations -- Department of Children and Families response  
11:18:13 AM Senator Latvala question  
11:18:39 AM John Cooper, Assistant Secretary for Operations -- Department of Children and Families response  
11:18:59 AM Senator Latvala question  
11:19:22 AM John Cooper, Assistant Secretary for Operations -- Department of Children and Families response  
11:19:32 AM Senator Latvala remark  
11:19:42 AM Senator Dockery question  
11:20:03 AM John Cooper, Assistant Secretary for Operations -- Department of Children and Families response  
11:20:32 AM Senator Dockery question  
11:20:43 AM John Cooper, Assistant Secretary for Operations -- Department of Children and Families response  
11:21:00 AM Senator Gibson question  
11:21:24 AM John Cooper, Assistant Secretary for Operations -- Department of Children and Families response  
11:21:29 AM Senator Storms remarks  
11:21:48 AM Senator Gibson question  
11:22:24 AM Carol Preston, CFEA Chief Legislative Analyst, SPB 7048 -- Department of Children and Family Services response  
11:22:57 AM Senator Rich remarks  
11:24:00 AM Senator Storms remarks  
11:25:37 AM Senator Rich remarks  
11:26:17 AM Carol Preston, CFEA Chief Legislative Analyst, SPB 7048 -- Department of Children and Family Services question  
11:26:28 AM Senator Storms remarks  
11:26:50 AM Senator Gibson question  
11:27:39 AM John Cooper, Assistant Secretary for Operations -- Department of Children and Families response  
11:27:49 AM Senator Storms remarks  
11:28:32 AM SPB 7048, Department of Children and Family Services (Public Testimony)  
11:29:36 AM SPB 7048, Department of Children and Family Services vote  
11:29:51 AM SPB 7162, Sexually Violent Predators (CFEA)  
11:31:12 AM Renai Farmer, CFEA Staff Director, SPB 7162 -- Sexually Violent Predators  
11:33:25 AM Senator Storms remarks  
11:35:12 AM Renai Farmer, CFEA Staff Director, SPB 7162 -- Sexually Violent Predators  
11:36:03 AM Senator Storms remarks  
11:39:10 AM SPB 7162, Sexually Violent Predators vote  
11:39:33 AM SPB 7168, Domestic Violence (CFEA)  
11:39:56 AM Carol Preston, CFEA Chief Legislative Analyst, SPB 7168 -- Domestic Violence  
11:42:00 AM Senator Storms remarks  
11:42:07 AM SPB 7168, Domestic Violence (Public Testimony)  
11:42:17 AM Senator Storms remarks  
11:42:53 AM SPB 7168, Domestic Violence vote  
11:43:14 AM SPB 7164, Substance Abuse and Mental Health Services (CFEA)  
11:43:38 AM Ashley Daniell, CFEA Staff Attorney, SPB 7164 -- Substance Abuse and Mental Health Services  
11:44:42 AM Senator Storms remarks  
11:50:01 AM David Wilkins, Secretary, Department of Children and Families remarks  
11:51:57 AM Senator Storms remarks  
11:52:23 AM SPB 7164, Substance Abuse and Mental Health Services (Public Testimony)  
11:54:43 AM Senator Storms remarks  
11:55:17 AM SPB 7164, Substance Abuse and Mental Health Services (Public Testimony)  
11:57:30 AM Senator Storms remarks  
11:57:47 AM SPB 7164, Substance Abuse and Mental Health Services (Public Testimony)  
11:58:19 AM Senator Storms and Senator Latvala remarks  
11:59:05 AM SPB 7164, Substance Abuse and Mental Health Services (Public Testimony)  
12:00:14 PM Senator Storms remarks  
12:00:42 PM SPB 7164, Substance Abuse and Mental Health Services (Public Testimony)

**12:05:07 PM** Senator Latvala remarks  
**12:05:27 PM** SPB 7164, Substance Abuse and Mental Health Services (Public Testimony)  
**12:06:01 PM** Senator Latvala remarks  
**12:06:06 PM** SPB 7164, Substance Abuse and Mental Health Services (Public Testimony)  
**12:06:18 PM** Senator Latvala remarks  
**12:06:45 PM** SPB 7164, Substance Abuse and Mental Health Services (Public Testimony)  
**12:07:03 PM** Senator Latvala and Senator Storms remarks  
**12:07:36 PM** Senator Storms remarks  
**12:08:17 PM** Senator Latvala question  
**12:08:23 PM** Senator Storms response  
**12:08:30 PM** Senator Latvala remarks  
**12:08:42 PM** SPB 7164, Substance Abuse and Mental Health Services (Public Testimony)  
**12:12:55 PM** SPB 7164 amendment (barcode 423934) by Senator Latvala  
**12:13:47 PM** SPB 7164, Substance Abuse and Mental Health Services vote  
**12:14:04 PM** Senator Latvala motion  
**12:14:14 PM** Senator Storms remarks  
**12:14:26 PM** Adjourn