

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

CHILDREN, FAMILIES, AND ELDER AFFAIRS

Senator Sobel, Chair
Senator Hays, Vice Chair

MEETING DATE: Tuesday, March 12, 2013
TIME: 2:00 —4:30 p.m.
PLACE: Mallory Horne Committee Room, 37 Senate Office Building

MEMBERS: Senator Sobel, Chair; Senator Hays, Vice Chair; Senators Altman, Braynon, Clemens, Dean, Detert, Diaz de la Portilla, Grimsley, and Thompson

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 964 Abruzzo (Identical H 887, Compare H 477)	Termination of Parental Rights; Providing that a parent's rights may be terminated if the court determines, by clear and convincing evidence, that the child was conceived during an act of sexual battery, the parent is found guilty of sexual battery, or the court is presented with documentary evidence that the parent pled guilty to the charge of sexual battery, etc. CF 03/12/2013 Fav/CS CJ JU	Fav/CS Yeas 9 Nays 0
2	SB 196 Sobel (Identical H 259)	Families First; Setting forth fees and costs to be applied when petitioning for a dissolution of a domestic partnership or registering a domestic partnership, respectively; requiring that certain fees relating to declarations of domestic partnership and dissolution of domestic partnership filings be deposited in the Displaced Homemaker Trust Fund; requiring two individuals who wish to become partners in a domestic partnership to complete and file a Declaration of Domestic Partnership form with the clerk of the circuit court; providing methods to prove the existence of a registered Declaration Domestic Partnership when the certificate document has been lost or is otherwise unavailable, etc. CF 02/19/2013 Temporarily Postponed CF 03/12/2013 Temporarily Postponed JU AHS AP RC	Temporarily Postponed
3	Review of Child Support Guidelines - Dr. Stefan Norrbin, Florida State University		Presented

COMMITTEE MEETING EXPANDED AGENDA

Children, Families, and Elder Affairs

Tuesday, March 12, 2013, 2:00 —4:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 56 Hays (Similar CS/H 83)	Infant Death; Revising legislative findings and intent with respect to the sudden unexpected death of an infant under a specified age; defining the term "sudden unexpected infant death"; revising provisions relating to training requirements for first responders; revising requirements relating to autopsies performed by medical examiners; requiring the Medical Examiners Commission to provide for the development and implementation of a protocol for the medicolegal investigation of sudden unexpected infant deaths; deleting references to the SIDS hotline and local SIDS alliances, etc. HP 01/23/2013 Favorable CF 02/19/2013 Not Considered CF 03/06/2013 Temporarily Postponed CF 03/12/2013 Fav/CS	Fav/CS Yeas 8 Nays 0
5	SB 630 Clemens (Identical H 591)	Regulation of Summer Camps; Providing that Department of Children and Families license requirements apply to summer day camps and summer 24-hour camps; prohibiting a governmental agency from regulating the religious curriculum of a summer day camp or summer 24-hour camp; providing an exception; providing procedure for application for a license to operate a summer day camp or summer 24-hour camp; providing screening requirements for camp personnel, etc. CF 03/06/2013 Temporarily Postponed CF 03/12/2013 Fav/CS RC	Fav/CS Yeas 9 Nays 0
6	SB 748 Bean (Identical H 779, Compare H 125, S 440)	Program of All-inclusive Care for the Elderly; Requiring the Agency for Health Care Administration to contract with a certain organization to provide services under the federal Program of All-inclusive Care for the Elderly in Duval, St. Johns, Baker, and Nassau Counties; providing an exemption from provisions relating to Health Care Service Programs for the organization; requiring the organization, subject to an appropriation, to enroll a specified number of persons to participate in the program in the named counties, etc. CF 03/12/2013 Fav/CS HP	Fav/CS Yeas 9 Nays 0
7	Other Related Meeting Documents		

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 964

INTRODUCER: Children, Families, and Elder Affairs Committee and Senator Abruzzo

SUBJECT: Termination of Parental Rights

DATE: March 13, 2013 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Preston	Hendon	CF	Fav/CS
2.			CJ	
3.			JU	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

CS/SB 964 provides that a father’s parental rights may be terminated if the court determines, by clear and convincing evidence that the child was conceived during an act of sexual battery pursuant to section 794.001, Florida Statutes or a similar law of another jurisdiction. A presumption is created that such termination is in the child’s best interests. The bill also provides that a petition for termination of parental rights under these circumstances may be filed at any time.

This bill conforms a cross reference to add the new section 39.806(1)(m), Florida Statutes, to section 39.811(6)(e), Florida Statutes related to those grounds in which termination of the rights of one parent may be severed without severing the rights of the other parent.

This bill is expected to have no fiscal impact on the state, has an effective date of July 1, 2013, and provides for retroactive application.

This bill substantially amends sections 39.806 and 39.811 of the Florida Statutes.

II. Present Situation:

Parental Rights

In the United States, the right to have and raise a family is a fundamental right grounded in the 14th Amendment.¹ Because parental rights are fundamental, parents are not easily deprived of these rights. Courts presume that parents have parental rights to their biological children and to overcome this presumption and deprive a parent of parental rights, there must be “grave and weighty reasons” for such deprivation.² Parental rights allow for significant involvement in a child’s life. These rights include the right to custody of the child, visitation with the child, and notice and/or consent for adoption.³

In most states two types of custody are referred to: physical and legal. Physical custody is when a parent has the right and obligation to provide a physical home for the child and make day-to-day decisions concerning the child. Legal custody is when a parent has the right to make important decisions about a child’s welfare, including but not limited to, decisions related to education and healthcare.⁴

Custody can also be sole or joint, with joint custody becoming more common over the years. Such custody necessarily entails significant contact and communication between parents. For example, parents may have to communicate with each other about the child’s health, the child’s progress in school and what activities the child is permitted to engage in. Joint custody can even restrict either parent from relocating if the relocation puts the child too far away from one of the parents.⁵

In Florida, in cases where the parents of a child have never been married, are separated, or are divorced, the court is required to order that parental responsibility for the child be shared by both parents unless the court finds that shared parental responsibility would be detrimental to the child. Evidence that a parent has been convicted of a misdemeanor of the first degree or higher involving domestic violence, as defined in s. 741.28, F.S., and ch. 775, F.S., or meets the criteria of s. 39.806(1)(d), F.S., creates a rebuttable presumption of detriment to the child. If the presumption is not rebutted after the convicted parent is advised by the court that the presumption exists, shared parental responsibility, including time-sharing with the child, and decisions made regarding the child, may not be granted to the convicted parent. However, the convicted parent is not relieved of any obligation to provide financial support.⁶

If a parent does not have physical custody, the parent normally has visitation rights. Visitation rights are strong and absent exceptional circumstances, courts will not deny parents these rights. In Florida, if the court determines that shared parental responsibility would be detrimental to the child, it may order sole parental responsibility and make such arrangements for time-sharing as

¹ *Meyer v. Nebraska*, 262 U.S. 390, 399 (1923).

² Kara N. Bitar. *The Parental Rights of Rapists*. DUKE JOURNAL OF GENDER LAW & POLICY. 19:275 (2012).

³ *Id.*

⁴ Florida has moved away from using the terms custody and visitation and instead the statutes refer to shared parental responsibility, sole parental responsibility and time sharing. Chapter 2008-61, L.O.F.

⁵ Section 61.13001, F.S.

⁶ Section 61.13, F.S.

specified in the parenting plan as will best protect the child or abused spouse from further harm. Whether or not there is a conviction for any offense of domestic violence or child abuse or the existence of an injunction for protection against domestic violence, the court shall consider evidence of domestic violence or child abuse as evidence of detriment to the child.⁷

In addition to rights to custody and visitation, fathers normally must be provided notice if the mother wants to place the child for adoption and, under certain circumstances, must consent to the adoption. Notice and consent requirements vary by state. In Florida, the Legislature has found:

... that the interests of the state, the mother, the child, and the adoptive parents outweigh the interest of an unmarried biological father who does not take action in a timely manner to establish and demonstrate a relationship with his child in accordance with the requirements of this chapter. An unmarried biological father has the primary responsibility to protect his rights and is presumed to know that his child may be adopted without his consent unless he strictly complies with this chapter and demonstrates a prompt and full commitment to his parental responsibilities.^{8,9}

A biological father's rights to notice and consent for adoption can affect women who want to place their newborn child for adoption as well as women who have decided to raise their child and want their spouse or significant other to adopt the child.¹⁰

Parental rights can also play a role when one parent is seeking public assistance. For instance, under the current welfare system, a single mother will not receive assistance unless she agrees to cooperate with the state in locating the father and obtaining child support from him.¹¹ In Florida, cooperation includes:

- Assisting in identifying and locating a parent who does not live in the same home as the child and providing complete and accurate information on that parent;
- Assisting in establishing paternity; and
- Assisting in establishing, modifying, or enforcing a support order with respect to a child of a family member.¹²

In sum, parental rights give parents the right to a substantial role in their children's lives. These rights are fundamental and courts will not readily terminate them. As such, a rapist who fathers a child, absent legislation to the contrary, would have rights to the child.

⁷ *Id.*

⁸ Section 63.053, F.S.

⁹ In order to preserve the right to notice and consent to an adoption under Florida law, an unmarried biological father must file a notarized claim of paternity form with the Florida Putative Father Registry maintained by the Office of Vital Statistics of the Department of Health which includes confirmation of his willingness and intent to support the child for whom paternity is claimed in accordance with state law. Section 63.054, F.S.

¹⁰ See generally Chapter 63, L.O.F.

¹¹ Section 414.095(6), F.S.

¹² *Id.* These requirements do not apply if the Department of Revenue determines that the parent or caretaker relative has good cause for failing to cooperate.

Termination of Parental Rights in General

Florida courts have long recognized the “fundamental liberty interest of parents in determining the care and upbringing of their children free from the heavy hand of government paternalism.”¹³ This fundamental parental right is not absolute, but is limited only by the principle that the welfare or best interest of the child is paramount.¹⁴

Although a parent’s interest in maintaining parental ties is essential, a child’s entitlement to a safe environment is more so.¹⁵ Because the state has a compelling interest in protecting its children, it may permanently and involuntarily terminate parental rights, but only after showing by clear and convincing evidence that the parent “poses a substantial risk of significant harm to the child.”¹⁶ Florida courts have also held that, because termination of parental rights implicates a fundamental liberty interest, termination must be the least restrictive means of protecting the child.¹⁷

Relying on these constitutional principles, the framework for terminating parental rights in Florida requires the state to establish with clear and convincing evidence:¹⁸

- The existence of statutory grounds;
- That termination is in the child’s best interest; and
- That termination is the least restrictive means of protecting the child.¹⁹

The “least restrictive means” analysis is not defined by statute; however, Florida courts have found that the least restrictive means test “requires the court to utilize measures short of termination if such measures can permit a safe re-establishment of the parent-child bond.”²⁰

Grounds for Termination of Parental Rights in Florida

A proceeding to terminate parental rights may be initiated by the department, the guardian ad litem, or any other interested person.²¹ The petition for termination must include allegations that one of the grounds for termination has been met, that the parents were informed of their right to counsel, and that termination is in the best interest of the child.²²

Unless certain exceptions apply, the department is mandated to file a petition to terminate parental rights if:

¹³ *Padgett v. Department of Health and Rehabilitative Services*, 577 So. 2d 565, 570 (Fla. 1991).

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.* at 571.

¹⁷ *Id.*

¹⁸ Section 39.809(1), F.S.

¹⁹ *T.C. v. Department of Children and Families*, 961 So. 2d 1060, 1061 (Fla. 4th DCA 2007).

²⁰ *L.D. v. Department of Children and Family Services*, 957 So. 2d 1203, 1206 (Fla. 3d DCA 2007) (quoting *E.R. v. Department of Children and Family Services*, 937 So. 2d 1196, 1199 (Fla. 3d DCA 2006)).

²¹ Section 39.802(1), F.S.

²² Section 39.802(4), F.S.

- At the time of the 12-month judicial review hearing, a child is not returned to the physical custody of the parents;
- A child has been in out-of-home care under the responsibility of the state for 15 of the most recent 22 months;
- A parent has been convicted of murder or manslaughter of the other parent, aiding, abetting, conspiracy, or solicitation to murder the other parent, or of a felony battery that resulted in serious bodily injury to the child or to any other child of the parent; or
- A court determines that reasonable efforts to reunify the child and parent are not required.²³

In Florida, grounds for the termination of parental rights may be established under the following circumstances:²⁴

- (a) Voluntary surrender of the child by the parent or parents;
- (b) Abandonment;
- (c) Conduct that demonstrates that the continuing involvement of the parent or parents in the parent-child relationship threatens the life, safety, wellbeing, or physical, mental, or emotional health of the child, irrespective of the provision of services;
- (d) Incarceration under certain circumstances;²⁵
- (e) Failure to comply with the case plan;
- (f) Egregious conduct that threatens the life, safety, or physical, mental, or emotional health of the child or the child's sibling;
- (g) Aggravated child abuse, sexual battery or sexual abuse, or chronic abuse;
- (h) Murder, voluntary manslaughter, or felony assault of the child or another child;
- (i) Parental rights to a sibling have been terminated involuntarily;
- (j) Parents have a history of extensive, abusive and chronic use of alcohol or controlled substances;
- (k) A test administered at birth that indicated that the child's blood, urine, or meconium contained any amount of alcohol or a controlled substance or metabolites of such substances under certain circumstances; and
- (l) On three or more occasions the child or another child of the parent or parents has been placed in out-of-home care and the conditions that led to the child's out-of-home placement were caused by the parent or parents.

²³ Section 39.8055, F.S.

²⁴ Section 39.806(1), F.S.

²⁵ The circumstances include: 1. 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; 2. The incarcerated parent has been determined by the court to be a violent career criminal as defined in s. 775.084, F.S., a habitual violent felony offender as defined in s. 775.084, F.S., or a sexual predator as defined in s. 775.21, F.S., has been convicted of first degree or second degree murder in violation of s. 782.04, F.S., or a sexual battery that constitutes a capital, life, or first degree felony violation of s. 794.011, F.S., or has been convicted of an offense in another jurisdiction which is substantially similar to one of the offenses listed in this paragraph. 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; or 3. 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.

Reasonable efforts to preserve and reunify families are not required if a court determines that any of the events described in (b)-(d) or (f)-(l) above, has occurred.²⁶

In determining the best interests of the child, the court must consider and evaluate all relevant factors, including:

- Availability of a permanent custody arrangement with a relative of the child;
- Ability of the parent to provide for the child;
- Capacity of the parent to care for the child;
- Mental and physical health needs of the child;
- Love, affection, and other emotional ties existing between the child and the parent;
- Likelihood of an older child remaining in long-term foster care upon termination;
- Child's ability to form a significant relationship with a parental substitute and the likelihood that the child will enter into a more stable and permanent family relationship as a result of permanent termination;
- Length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity;
- Depth of the relationship existing between the child and the present custodian;
- Reasonable preferences and wishes of the child; and
- Recommendations for the child provided by the child's guardian ad litem or legal representative.²⁷

Section 39.811(6), F.S., provides that the parental rights of one parent may be severed without severing the parental rights of the other parent only under certain, specified circumstances, one of which is if the parent whose rights are being terminated meets any of the grounds specified in s. 39.806(1)(d) and (f)-(l), F.S.

Grounds for Termination of Parental Rights in Other States

At least 19 states, including Alaska, Connecticut, Idaho, Louisiana, Maine, Missouri, Montana, Oklahoma, Pennsylvania, Texas, Washington, and Wisconsin, allow for the termination of parental rights in cases where the parent is the father of a child conceived as a result of rape, sexual assault, or incest.²⁸

In other states, consent to adoption is not required from a biological father if the child who is the subject of the adoption proceeding was conceived as the result of criminal sexual assault or abuse.²⁹ In Nevada and New Jersey, a person convicted of sexual assault has no right to custody or visitation with a child who is born because of the assault.³⁰

²⁶ Section 39.806(2), F.S. See also s. 39.521(1)(f), F.S.

²⁷ Section 39.810, F.S.

²⁸ See, for example, AL. s. 25.23.180(c)(3); CT. GEN. STAT. ss. 17a-112(j)(3)(G) and 45a-717(g)(2)(G); ID. CODE ANN. s. 16-2005(2)(a); LA. Child. CODE ANN. art. 1015; ME. REV. STAT. ANN. Tit. 19-A, s. 1658; MO. REV. STAT. ANN. s. 211.447; MT. CODE ANN. s. 41-3-609(1)(c); OK. STAT. ANN. Tit. 10, s. 7006-1.1; PA. CONS. STAT. ANN. s. 2511(a)(7); TX. Fam. CODE ANN. s. 161.007; WA. REV. CODE ANN. s. 13.34.132; WI. STAT. ANN. s. 48.415(9)(a).

²⁹ See 750 Ill. Comp. Stat. 50/8(a)(5); IN. CODE 31-19-9-8(a)(4); NY. Domestic Relations Laws. 111-a(1); S.C. CODE ANN. s. 20-7-1734.

At least one court has considered the constitutional implications of terminating parental rights to a child born as the result of illegal sexual intercourse. In *Pena v. Mattox*, the United States Court of Appeals for the Seventh Circuit considered the argument made by a biological father who conceived a child during statutory rape that he had a constitutionally protected right to parent the child.³¹ The court noted that the United States Constitution does indeed forbid a state from depriving parents of their children without good reason, but went on to say:

It is not the brute biological fact of parentage, but the existence of an actual or potential relationship that society recognizes as worthy of respect and protection, that activates the constitutional claim.

[N]o court has gone so far as to hold that the mere fact of fatherhood, consequent upon a criminal act. Creates an interest that the Constitution protects in the name of liberty. The criminal does not acquire constitutional rights by his crime other than the procedural rights that the Constitution confers on criminal defendants. Pregnancy is an aggravating circumstance of a sexual offense, not a mitigating circumstance. The criminal should not be rewarded for having committed the aggravated form of the offense by receiving parental rights which he may be able to swap for the agreement of the victim's family not to press criminal charges.

The Constitution does not forbid the states to penalize the father's illicit and harmful conduct by refusing to grant him parental rights that he can use to block an adoption or simply enjoy as the fruit of his crime. The maxim that a wrongdoer shall not profit from his wrong is deeply inscribed in the Anglo-American legal tradition.

[A] state has discretion to decide whether it is better to encourage the kind of conduct in which the plaintiff engaged by giving him parental rights or discourage it by refusing to bestow legal protection on the relationship between father and child. The interest asserted by the plaintiff is not so compelling as to warrant our overriding the state's choice in the name of the Constitution.³²

Paternity Establishment in Florida

Unmarried fathers in Florida must legally establish paternity in order to claim their paternal rights.³³ Any woman who is pregnant or has a child, any man who has reason to believe that he is the father of a child, or any child may bring proceedings to determine the paternity of the child when paternity has not been established by law or otherwise.³⁴

³⁰ See NV. REV. STAT. s. 125C.210; NJ. STAT. ANN. 9:2-4.1.

³¹ *Pena v. Mattox*, 84 F.3d 894 (7th Cir. 1996).

³² *Id.* at 899-902.

³³ A man who is or may be the biological father of a child whose paternity has not been established and whose mother was unmarried when the child was conceived and born is known as a "putative father." Section 409.256, F.S.

³⁴ Section 742.011, F.S.

Except as provided in chs. 39 and 63, F.S., primary jurisdiction and procedures for the determination of paternity for children born out of wedlock is provided under ch. 742, F.S. Paternity is considered to have been established if:

- The establishment of paternity has been raised and determined within an adjudicatory hearing brought under the statutes governing inheritance, or dependency under workers' compensation or similar compensation programs;
- An affidavit acknowledging paternity or a stipulation of paternity is executed by both parties and filed with the clerk of the court;
- An affidavit, a notarized voluntary acknowledgment of paternity, or a voluntary acknowledgment of paternity that is witnessed by two individuals and signed under penalty of perjury as provided for in s. 382.013, F.S., or s. 382.016, F.S., is executed by both parties; or
- Paternity is adjudicated by the Department of Revenue as provided in s. 409.256, F.S.³⁵

Sexual Battery

Section 794.011(1)(h), F.S., defines sexual battery as “oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object.” Section 794.011, F.S., provides various levels of penalties for the commission of sexual battery, depending on the age of the victim and the circumstances of the offense.

In 2011, there were 9,880 forcible sex offenses in Florida, including 5,273 forcible rapes.³⁶ One author reports that:

Pregnancy from rape occurs with “significant frequency.” Of the estimated 12 percent of adult women in the United States that have experienced at least one rape in their lifetime, 4.7 percent of these rapes result in pregnancy. Therefore, based on a 1990 study estimating that 683,000 women over the age of eighteen were raped in that year, conceivably 32,000 rape-related pregnancies occur annually. A separate study conducted in 2000 estimated that, given the decline in the incidence of rape, 25,000 pregnancies following the rape of adult women occur annually. It is difficult to determine with certainty the outcome of the approximately 25,000 to 32,000 rape-related pregnancies that occur in the United States each year. One study found that 50 percent of women who became pregnant by rape underwent abortions, 5.9 percent placed their infants for adoptions, and 32.3 percent of raped women kept their infants. Another study, conducted in a separate year, found markedly different results, concluding that 26 percent of women pregnant through rape underwent abortions. Of the 73 percent of women who carried their pregnancies to term, 36 percent placed their infants for adoption, and 64 percent raised the children they conceived through rape.³⁷

³⁵ Section 742.10, F.S.

³⁶ Florida Department of Law Enforcement, *Crime in Florida. 2011. available at http://www.fdle.state.fl.us/Content/getdoc/594fa00a-35bb-4e79-ad95-ba8bb0fc67f5/CIF_Annual11.aspx*. (last visited Mar. 7, 2013).

³⁷ Shauna R. Prewitt. *Giving Birth to a “Rapist’s Child”*: A Discussion and Analysis of the Limited Legal Protections Afforded to Women Who Become Mothers Through Rape. THE GEORGETOWN LAW JOURNAL 98:827 (2010).

Restitution in Florida

Unless a court finds clear and compelling reasons not to order restitution, it must order the defendant to make restitution to a victim in a criminal proceeding for:

- Damage or loss caused directly or indirectly by the defendant's offense; and
- Damage or loss related to the defendant's criminal episode.³⁸

The term "victim" as used in the provisions of law relating to restitution means "each person who suffers property damage or loss, monetary expense, or physical injury or death as a direct or indirect result of the defendant's offense or criminal episode, and also includes the victim's estate if the victim is deceased, and the victim's next of kin if the victim is deceased as a result of the offense."³⁹

The court may require that the defendant make restitution within a specified period or in specified installments, but the end of the specified period or the last installment cannot be later than:

- The end of the period of probation if probation is ordered;
- Five years after the end of the term of imprisonment if the court does not order probation; or
- Five years after the date of sentencing in any other case.⁴⁰

If a defendant is placed on probation or paroled, complete satisfaction of any restitution ordered must be a condition of the probation or parole. The court may revoke probation, and the Parole Commission may revoke parole, if the defendant fails to comply with the restitution order.⁴¹

Pursuant to s. 775.089(11), F.S., the court may order the clerk of the court or the Department of Corrections (DOC) to collect and disburse restitution payments. In addition, an order of restitution may be enforced by the state or by a victim in the same manner as a judgment in a civil action.⁴²

Child Support in Florida

The Department of Revenue (DOR) Child Support Enforcement Program (CSE) obtains court or administrative orders for child support, using guidelines provided in s. 61.30, F.S., to establish the amount of the obligation. The child support guidelines are based on the number of children and the combined income of the parents. The child support obligation is divided between the parents in direct proportion to their income or earning capacity. The parent with whom the child lives most of the time is paid the established support by the other parent. In most cases, a child support obligation continues until a child reaches 18 years of age.⁴³

³⁸ Section 775.089(1)(a), F.S.

³⁹ Section 775.089(1)(c), F.S.

⁴⁰ Section 775.089(3), F.S.

⁴¹ Section 775.089(4), F.S.

⁴² Section 775.089(5), F.S.

⁴³ Section 61.30(1)(a), F.S.

As required by federal law,⁴⁴ the child support enforcement program shall not disclose information on the whereabouts of one party or the child to the other party against whom a protective order with respect to the former party or the child has been entered, nor shall the program disclose information on the whereabouts of one party or the child to another person if the program has reason to believe that the release of information to that person may result in physical or emotional harm to the party or the child.⁴⁵

III. Effect of Proposed Changes:

The bill substantially changes Florida's termination of parental rights standard to include harm not done to the child as stated in s. 39.806(1) F.S., but towards the mother of a child, as a result of a sexual battery that resulted in the birth of a child.

Section 1 of the bill:

- Provides that a father's parental rights may be terminated if the court determines, by clear and convincing evidence that the child was conceived during an act of sexual battery pursuant to s. 794.001, F.S. or a similar law of another jurisdiction;
- Creates a presumption that such termination is in the child's best interests; and
- Provides that a petition for termination of parental rights under these circumstances may be filed at any time.

Section 2 of the bill conforms a cross reference to add the new 39.806(1)(m), F.S., to s. 39.811(6)(e), F.S., related to those grounds in which termination of the rights of one parent may be severed without severing the rights of the other parent.

Section 3 of the bill provides an effective date of July 1, 2013, and provides for retroactive application.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

⁴⁴ 42 U.S.C. s. 654 (26).

⁴⁵ Section 409.2579, F.S.

D. Other Constitutional Issues:

The bill potentially implicates Article 1, Section 23, of the State Constitution relating to privacy rights.⁴⁶ Parents have a right to raise their children free from governmental intrusion, unless the state can show harm to the child.

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

None.

B. Private Sector Impact:

There may be costs to mothers who are petitioning the court to terminate parental rights under the newly created grounds for termination.

C. Government Sector Impact:

The Office of the State Courts Administrator (OSCA) reported that the addition of two new grounds for termination of parental rights could increase judicial workload because there would be more grounds for petitions to be filed. However, it is not known in how many instances the new grounds would be applied. Also, if the additional grounds apply to cases in which other grounds already exist, there could be little effect on workload (at least in those cases) because the petition would already be filed alleging other grounds.⁴⁷

The fiscal impact on expenditures of the state courts system cannot be accurately determined due to the unavailability of data needed to quantifiably establish the increase in judicial workload.⁴⁸

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill contains no provisions related to lewd or lascivious battery under s.800.04, F.S., similar to the sexual battery offense already covered by the provisions of the bill. That offense may result in a pregnancy as well.

The addition of two new grounds for termination of parental rights under s. 39.806(1) F.S., is no guarantee that the court will terminate the parental rights of an individual who has committed sexual battery and the crime resulted in the conception of a child. The section states that

⁴⁶ FLA. CONST. art. 1, s. 23 provides that every natural person has the right to be let alone and free from governmental intrusion into the person's private life except as otherwise provided herein.

⁴⁷ Florida Office of the State Courts Administrator, *2013 Judicial Impact Statement, SB 964* (Mar. 8, 2013).

⁴⁸ *Id.*

“grounds for termination of parental rights **may** be established under any of the following circumstances:

If the court does not terminate parental rights under the new grounds created by this bill, there is no safety net for the mother of the child related to contact with the father of the child except what is currently provided for in s. 61.13, F.S. Current law provides a specific reference to victims of domestic violence in relation to shared parental responsibility and time-sharing that provides that the court shall consider evidence of domestic violence as evidence of detriment to the child. The same consideration may need to be given to victims of sexual assault who decide to raise their children.

Creating alternate protection under ch. 61, F.S., may be particularly important because the termination of parental rights implicates a fundamental liberty interest, which must be the least restrictive means of protecting the child.⁴⁹ Prohibiting time-sharing under ch. 61, F.S., may well be considered by a court as a least restrictive means of protecting the child.⁵⁰

Also, if the court does not terminate parental rights under the new grounds, and orders sole parental responsibility for the mother with no time sharing for the father, the court may still order the father of the child to pay child support. Without some statutory provision, the father of the child may have access to the mother’s location information. Again, current law shields that information in cases involving victims of domestic violence.

If parental rights are terminated under the provisions of this bill, no child support would be ordered, and some mothers who have chosen to raise their children may be left without the financial means to do so. Some type of financial support in the form of restitution specific to these types of cases may need to be considered:

For example, the state of Washington provides that restitution for the crime of rape of a child in which the child becomes pregnant shall include (1) all medical expenses associated with the rape and the pregnancy, and (2) child support for the child born as a result of the rape, as ordered pursuant to a separate child support order. The Washington statute requires that restitution payments made in these circumstances be processed through the state’s child support registry and that identifying information about the victim and the victim’s child shall not be included in the order. The statute provides that the offender shall remain under the criminal court’s jurisdiction until the child support obligation is satisfied or for 25 years, whichever is longer.⁵¹

If parental rights are terminated under the provisions of this bill and the mother of the child must apply for public assistance, absent additional statutory provisions, the mother would be required to cooperate with the child support enforcement program. This would include helping identify and locate the father of the child.

⁴⁹ Padgett, 577 So.2d at 571 (Fla. 1991).

⁵⁰ Section 61.13(2), F.S.

⁵¹ WA. REV. CODE ANN. ss. 9.94A.753(6) and 9.94A.760 (4).

VIII. Additional Information:

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

CS by Children, Families, and Elder Affairs on March 12, 2013:

- Provides that a father's parental rights may be terminated if the court determines, by clear and convincing evidence that the child was conceived during an act of sexual battery pursuant to s. 794.001, F.S. or a similar law of another jurisdiction;
- Provides that a petition for termination of parental rights under these circumstances may be filed at any time;
- Conforms a cross reference to add the new s. 39.806(1)(m), F.S., to s. 39.811(6)(e), F.S., related to those grounds in which termination of the rights of one parent may be severed without severing the rights of the other parent; and
- Provides for retroactive application.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/13/2013	.	
	.	
	.	
	.	

The Committee on Children, Families, and Elder Affairs (Sobel) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Paragraph (m) is added to subsection (1) of section 39.806, Florida Statutes, and subsection (2) of that section is amended, to read:

39.806 Grounds for termination of parental rights.—

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

(m) The court determines by clear and convincing evidence that the child was conceived as a result of an act of sexual



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13 battery made unlawful pursuant to s. 794.011, or pursuant to a
14 similar law of another state, territory, possession, or Native
15 American tribe where the offense occurred. It is presumed that
16 termination of parental rights is in the best interest of the
17 child if the child was conceived as a result of the unlawful
18 sexual battery. A petition for termination of parental rights
19 under this paragraph may be filed at any time.

20 (2) Reasonable efforts to preserve and reunify families are
21 not required if a court of competent jurisdiction has determined
22 that any of the events described in paragraphs (1) (b)-(d) or
23 paragraphs (1) (f)-(m) ~~(f)-(l)~~ have occurred.

24 Section 2. Subsection (6) of section 39.811, Florida
25 Statutes, is amended to read:

26 39.811 Powers of disposition; order of disposition.—

27 (6) The parental rights of one parent may be severed
28 without severing the parental rights of the other parent only
29 under the following circumstances:

30 (a) If the child has only one surviving parent;

31 (b) If the identity of a prospective parent has been
32 established as unknown after sworn testimony;

33 (c) If the parent whose rights are being terminated became
34 a parent through a single-parent adoption;

35 (d) If the protection of the child demands termination of
36 the rights of a single parent; or

37 (e) If the parent whose rights are being terminated meets
38 any of the criteria specified in s. 39.806(1) (d) and (f)-(m)
39 ~~(f)-(l)~~.

40 Section 3. This act shall take effect July 1, 2013, and
41 applies to all unlawful acts of sexual battery occurring before,



692330

42 on, or after that date.

43

44 ===== T I T L E A M E N D M E N T =====

45 And the title is amended as follows:

46 Delete everything before the enacting clause
47 and insert:

48 A bill to be entitled

49 An act relating to termination of parental rights;
50 amending s. 39.806, F.S.; providing that a parent's
51 rights may be terminated if the court determines, by
52 clear and convincing evidence, that the child was
53 conceived during an act of unlawful sexual battery;
54 creating a presumption that termination of parental
55 rights is in the best interest of the child if the
56 child was conceived as a result of an unlawful sexual
57 battery; providing that a petition to terminate
58 parental rights may be filed at any time; amending s.
59 39.811, F.S.; providing for termination of parental
60 rights of only one parent if conception was the result
61 of an unlawful sexual battery; providing an effective
62 date; providing for retroactive application.

By Senator Abruzzo

25-00831A-13

2013964__

A bill to be entitled

An act relating to termination of parental rights; amending s. 39.806, F.S.; providing that a parent's rights may be terminated if the court determines, by clear and convincing evidence, that the child was conceived during an act of sexual battery, the parent is found guilty of sexual battery, or the court is presented with documentary evidence that the parent pled guilty to the charge of sexual battery; providing an effective date.

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

Section 1. Paragraphs (m) and (n) are added to subsection (1) of section 39.806, Florida Statutes, and subsection (2) of that section is amended, to read:

39.806 Grounds for termination of parental rights.—

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

(m) The court determines by clear and convincing evidence that the child was conceived during an act of sexual battery, as defined in s. 794.011. Termination of parental rights is in the best interests of the child if the child was conceived under such circumstances.

(n) When the parent has been found guilty of the charge of sexual battery, as defined in s. 794.011, and that act of sexual battery resulted in the conception of a child with the moving party or the court is presented with documentary evidence of the parent's plea of guilty to the charge of sexual battery,

Page 1 of 2

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

25-00831A-13

2013964__

regardless of adjudication, and that act of sexual battery resulted in the conception of a child with the moving party.

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

Section 2. This act shall take effect July 1, 2013.

Page 2 of 2

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Commerce and Tourism, *Vice Chair*
Environmental Preservation and
Conservation, *Vice Chair*
Appropriations Subcommittee on Education
Appropriations Subcommittee on Finance and Tax
Communications, Energy, and Public Utilities
Military Affairs, Space, and Domestic Security

JOINT COMMITTEE:

Joint Legislative Auditing Committee, *Chair*

SENATOR JOSEPH ABRUZZO

25th District

February 21st, 2013

Senator Eleanor Sobel
410 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chair Sobel:

I respectfully request that Senate Bill 964, relating to Termination of Parental Rights for Rapists, be placed on the Children, Families, and Elder Affairs Committee agenda. This legislation will provide necessary safeguards for victims of sexual battery. Due to the fact that parental rights are fundamental rights, courts are not likely to terminate these rights without direction in state law. Florida is one of about 31 states that do not have laws to fully protect these victims.

Thank you for your consideration. Please let me know if I can provide further information.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph Abruzzo".

Senator Joseph Abruzzo

cc: Claude Hendon, Staff Director

RECEIVED

FEB 22 2013

Senate Committee
Children and Families

REPLY TO:

- 12300 Forest Hill Boulevard, Suite 200, Wellington, Florida 33414-5785 (561) 791-4774
- 222 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5025

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/12/13

Meeting Date

Topic TPR SA cases Bill Number 964
(if applicable)

Name Jennifer Dritt Amendment Barcode _____
(if applicable)

Job Title Executive Director

Address 1020 E. Park Avenue, Suite 100 Phone _____
Street

Tally FL 32301 E-mail jdritt@feasv.org
City State Zip

Speaking: For Against Information

Representing Florida Council Against Sexual 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. 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 Committee on Children, Families, and Elder Affairs

BILL: SB 196

INTRODUCER: Senator Sobel

SUBJECT: Families First

DATE: February 13, 2013 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Peterson	Hendon	CF	Pre-meeting
2.			JU	
3.			AHS	
4.			AP	
5.			RC	
6.				

I. Summary:

SB 196 creates a statewide system for registering and affording recognition to domestic partnerships and giving statewide application to all rights and responsibilities conferred on the partners and their children as provided in the bill. Specifically, the bill would:

- Provide legislative findings related to establishing and defining the rights and responsibilities of domestic partners.
- Create definitions of “department,” “domestic partnership,” and “partner.”
- Require individuals seeking to register a partnership to file a declaration attesting that each is 18 years of age or older; at least one is a Florida resident; and each consents to the jurisdiction of the Florida courts on matters related to the partnership.
- Make filing information in the registration that is intentionally or materially false a first degree misdemeanor.
- Require the Department of Health (DOH) to prepare necessary forms and to maintain records related to domestic partnerships as part of the vital statistics records.
- Require the clerks of the court to maintain a registry of all domestic partnerships entered into within the circuit and transmit all declarations of domestic partnership or records of dissolution to DOH on forms it prescribes.
- Prohibit partnerships between individuals who are already married to another person or in another partnership; who are blood relatives; or who lack capacity to consent; and voids partnerships that a court determines were coerced or fraudulent.
- Establishes the legal rights and responsibilities of individuals who are in a domestic partnership with respect to each other and their children, and the rights of the partners and their children under the tax laws of the state.

- Acknowledge that the Legislature lacks jurisdiction to extend the rights and responsibilities to any federal laws.
- Establish fees collected by the clerk of courts when a party files a petition or judgment for dissolution of domestic partnership or application for domestic partnership.

The bill will have an insignificant fiscal impact on the Department of Health, the clerks of court, and the state courts system and provides an effective date of July 1, 2013.

This bill substantially amends the following sections of the Florida Statutes: 28.101, 28.24, 97.1031, 382.002, 382.003, 382.0085, 382.021, 382.022, 382.023, 382.025, 382.0255, 446.50, and 741.28, Florida Statutes. This bill creates sections 741.501, 741.502, 741.503, 741.504, 741.505, 741.506, 741.507, 741.508, 741.509, 741.510, and 741.511, Florida Statutes. This bill reenacts Sections 921.0024(1)(b) and 943.171(2)(b), Florida Statutes.

II. Present Situation:

Marriage

Couples who wish to marry in Florida must obtain a license issued either by a county court judge or clerk of the court, subject to payment of a series of fees.¹ Before a license can be issued, the parties must submit a written affidavit, signed by both parties, providing their social security numbers, or other sworn identification, that indicates their ages; a statement regarding whether they have completed a premarital preparation course; and a statement indicating whether they have read the Family Law Handbook. Subject to limited exceptions, both parties must be at least 18 years, and one party must be male and the other female.² Couples must also disclose whether they have children together.³ A couple must first obtain a marriage license, then solemnize the marriage, whether by civil or religious ceremony.⁴ Once the license has been issued, it is recorded by the clerk, then transmitted to the DOH for inclusion in the vital statistics records.⁵

A common law marriage is “[a] marriage that takes legal effect, without license or ceremony, when a couple live together as husband wife, intend to be married, and hold themselves out to others as a married couple.”⁶ When recognized in Florida, common law marriages were given the “same dignity and recognition” as was accorded to ceremonial marriages.⁷ In 1968, the Florida Legislature created s. 741.211, F.S., which abrogated common law marriages entered into after 1968. Notwithstanding the statute, Florida courts continue to recognize common law marriages when validly entered into in another state.⁸

In 1997, the Florida Legislature again amended ch.741, F.S., this time to prohibit same-sex marriage. Section 741.212, F.S., states in relevant part:

¹ Sections 28.24(23), 741.01, and 741.02, F.S.

² Section 741.04, F.S.

³ Section 741.01(1), F.S.

⁴ Sections 741.08, 741.041, F.S.;

⁵ Section 382.021, F.S.

⁶ BLACK’S LAW DICTIONARY 439 (2d Pocket ed. 2001).

⁷ *Budd v. J.Y. Gooch Co.*, 157 Fla.716 (1946).

⁸ *Johnson v. Lincoln Square Properties*, 571 So.2d 541 (Fla. 2d DCA 1990) (limiting Section 741.211 to marriages occurring in Florida).

(1) Marriages between persons of the same sex ... or relationships between persons of the same sex which are treated as marriages...are not recognized for any purpose in this state....

(3) For purposes of interpreting any state statute or rule, the term “marriage” means only a legal union between one man and one woman a husband wife, and the term “spouse” applies only to a member of such a union.

The Legislature passed the bill to implement authority granted states in the Defense of Marriage Act (DOMA), which Congress adopted following a court case in Hawaii that legalized gay marriage. Members of Congress believed at the time that individuals would travel to Hawaii to marry, then return to their home state, where their marriages would be recognized under the Full Faith and Credit Clause of the U.S. Constitution. DOMA included language that removed any obligation of states to give effect to same-sex marriages that were legally entered into in other states.⁹ DOMA and Florida’s law were challenged by a same-sex couple who legally married in Massachusetts on the theory that both DOMA and the Florida law violated the Full Faith and Credit, Due Process, Equal Protection, Privileges and Immunities, and Commerce clauses of the U.S. Constitution.¹⁰ In rejecting all claims, the court refused also to elevate the ability to marry someone of the same gender to a fundamental right.¹¹ Thus, Florida’s law was upheld and the strategy envisioned by Congress succeeded.

At the same time s. 741.212, F.S. was being challenged in the courts, Florida voters passed Amendment 2, which added a DOMA provision to Florida’s constitution. The language states:

Inasmuch as marriage is the legal union of only one man and one woman as husband and wife, no other legal union that is treated as marriage or the substantial equivalent thereof shall be valid or recognized.¹²

Thus, the language of the Constitution not only defines marriage as a legal union between a man and a woman, as does s. 741.212, F.S., but it goes further to prohibit any other legal union “that is treated as marriage” or “the substantial equivalent” of marriage. To date, Florida courts have not interpreted those phrases in any case involving the rights or responsibilities of a relationship. However, the Florida Supreme Court has offered an indication of what its analysis might be as part of the Advisory Opinion it provided to the Attorney General on the amendment’s compliance with the single-subject requirement of the Florida Constitution and the statutory requirements for the ballot summary.¹³ In that opinion, the Court rejected the opponent’s claim that the amendment violated the single subject requirement because it impermissibly combined two distinct issues - marriage between a man and a woman and legal unions which provide for the benefits and responsibilities of marriage. Under that reading, voters could cast only one vote

⁹ House Committee on Governmental Operations, *Staff Analysis of CS/HB 147 – Same Sex Marriage* (March 6, 1997) (on file with the Senate Children, Families, and Elder Affairs Committee).

¹⁰ *Wilson v. Ake*, 354 F.Supp.2d 1298, 1302, (M.D. Fla. 2005).

¹¹ *Id.* at 1306.

¹² FLA. CONST. art. I, s. 27.

¹³ *Advisory Opinion To The Attorney General Re Florida Marriage Protection Amendment*, 926 So.2d 1229 (Fla. 2006). For further discussion of article I, section 27 of the Florida Constitution see the Constitutional Issues section of this report.

– for or against – whether or not they had a split opinion about the underlying issues. Proponents argued that the amendment did not have that effect and the Court agreed.

The proposed amendment does not impermissibly force voters to approve a portion of the proposal which they oppose to obtain a change which they support. Rather, the voter is merely being asked to vote on the singular subject of whether the concept of marriage and the rights and obligations traditionally embodied therein should be limited to the union of one man and one woman. The plain language of the proposed amendment is clear that the legal union of a same-sex couple that is *not* the “substantial equivalent” of marriage is not within the ambit of the constitutional provision.¹⁴

Civil Unions & Domestic Partnerships

A civil union is a separate legal status available in some states that provides nearly all of the rights and responsibilities provided to married couples under state law, but does not provide any of the federal benefits of marriage.¹⁵ While defined slightly differently in different locations, “domestic partnership” is commonly defined as two adults who are parties to a valid domestic relationship and who meet the requirements for a valid domestic partnership, which typically include that the parties are at least 18 years of age, not married or in another relationship, not related by blood, willing and able to consent, and willing to be jointly responsible for each other’s basic food and shelter.¹⁶

In general, there are few distinctions between civil unions and domestic partnerships. Civil unions generally require solemnization like a marriage. Domestic partnerships often are made available to both same-sex and opposite-sex couples. Depending on the rights conferred, one status may provide more legal rights than the other, but some of the distinctions may be more symbolic than legal. In either case, it is not always certain whether one state will honor a civil union or domestic partnership that is validly created under legislative authority of another state.¹⁷

Domestic partnerships may be formed under the terms of a legislative enactment, however, state laws and local ordinances vary in the extent of the rights and responsibilities conferred. Some are comprehensive with nearly all of the rights and responsibilities of marriage under state law, and some are more limited covering, for example, health care facility visitation, health care decisions, funeral and burial decisions, notification of family members in situations that provide for mandatory or permissible notification, including emergencies, visitation rights at county correctional and juvenile detention centers, pre-need guardian designation, participation in

¹⁴ *Id.* at 1234.

¹⁵ Nat’l Center for Lesbian Rights, *Marriage, Domestic Partnerships, and Civil Unions: An Overview of Relationship Recognition for Same-Sex Couples Within the United States*, (2012) [hereinafter *Overview*], available at http://www.nclrights.org/site/DocServer/Relationship_Recognition.pdf?docID=881 (last visited Feb. 12, 2013). In 2004, the U.S. General Accounting Office identified 1,138 federal rights and responsibilities that turn on marital status. U.S. GENERAL ACCOUNTING OFFICE, GAO-04-353R, DEFENSE OF MARRIAGE ACT: UPDATE TO PRIOR REPORT 1 (2004), available at <http://www.gao.gov/new.items/d04353r.pdf> (last visited Feb. 11, 2013).

¹⁶ Broward County, Fla., Code of Ordinances, Section 16 1/2-152(a) (Nov. 27, 2012); Miami-Dade County, Fla., Code of Ordinances, Section 11A-72 (March 6, 2012); Palm Beach County, Fla., Code of Ordinances, Section 2-6 (Feb. 2, 2013).

¹⁷ *Overview*, *supra* note 14.

education, and benefits of public employees. Currently, ten states and the District of Columbia have relationship recognition laws that cover civil unions and/or domestic partnerships.¹⁸

In Florida, eighteen jurisdictions formally recognize domestic partnerships, including: Orange, Volusia, Pinellas, Palm Beach, Broward, and Miami-Dade Counties, Gainesville, Coral Gables, Sarasota, Clearwater, St. Petersburg, Gulfport, Tampa, Orlando, Key West, North Miami, Miami Beach, and Tavares.¹⁹ According to Equality Florida, a civil rights organization dedicated to securing full equality for Florida's lesbian, gay, bisexual, and transgender community, 6.7 million Floridians currently live within jurisdictions that grant access to domestic partner benefits and protections either through partnership registries or public employee benefits programs.²⁰ Eleven of the jurisdictions with domestic partnership registry ordinances report a total of 9,741 couples currently registered.²¹

The terms of the Florida domestic partnership ordinances, like the civil union and domestic partnership laws nationwide, vary widely in the extent of the rights conferred. Early ordinances, such as Miami-Dade's, are more limited.²² Later-adopted ordinances, beginning with the 2012 enactment by the City of Orlando which has become a model for many of the more recently adopted ordinances, cover the broader range of rights as described above.²³

In 2000, the Broward County ordinance survived a legal challenge that it encroached upon an area of exclusive state authority in violation of article VII, section 1(g) of the Florida Constitution, which states:

CHARTER GOVERNMENT. Counties operating under county charters shall have all power of local self-government not inconsistent with general law, or with special law approved by the vote of the electors. The governing body of a county operating under a charter may enact county ordinances not inconsistent with general law....²⁴

¹⁸ Oregon, California, Nevada, New Jersey, Illinois, Delaware, Hawaii. Rhode Island, Maine, D.C., Wisconsin, Nat'l Conference of State Legislatures, *Civil Unions and Domestic Partnership Statutes.*, (updated Nov. 2012) <http://www.ncsl.org/issues-research/human-services/civil-unions-and-domestic-partnership-statutes.aspx> (last visited Feb. 12, 2013).

¹⁹ Email from Mallory Wells, Public Policy Director, Equality Florida, to the Senate Children, Families, and Elder Affairs Committee staff (Feb. 11, 2013) (on file with the Senate Children, Families, and Elder Affairs Committee).

²⁰ Equality Fla. Institute Inc., *Legal Handbook for LGBT Floridians and Their Families*, 24, (Jan. 4, 2012) [hereinafter *Handbook*], available at <http://eqfl.org/sites/default/files/publications/Legal-Handbook-for-LGBT-Floridians-and-Their-Families.pdf> (last visited Feb. 12, 2013).

²¹ Ordinance in two jurisdictions are not yet in effect. Data from the remaining five jurisdictions were not available in time for this analysis.

²² The Miami-Dade ordinance extends to county employees and their partners all insurance benefits, leave benefits (including family leave), and other benefits as are available to married employees; and extends to all registered partners healthcare facility visitation rights and visitation rights at county correctional and juvenile detention centers. .Miami-Dade County, Fla., Code of Ordinances, Sections 11A-75, 11A-76, and 11A-77 (March 6, 2012).

²³ Some rights conferred by these later-adopted ordinances have the effect of codifying rights that are already available from other sources. For example, health care decisions may be directed pursuant to ch.765, F.S. Likewise, rules issued by the Centers for Medicare & Medicaid Services prohibit Medicare- and Medicaid-participating hospitals from denying visitation privileges on the basis of race, color, national origin, religion, sex, sexual orientation, gender identity, or disability. News Release, U.S. Dept. of Health and Human Services, *Medicare finalizes new rules to require equal visitation rights for all hospital patients* (Nov. 10, 2010) <http://www.hhs.gov/news/press/2010pres/11/20101117a.html> (last visited Feb. 12, 2013).

²⁴ *Lowe v. Broward County*, 766 So.2d 1199, 1203 (Fla. 4th DCA 2000).

While the court agreed that the law of domestic relations is one matter reserved for the state, the court found that the Broward ordinance did not legislate within the zone of domestic issues that would be off limits.

The [ordinance] does not curtail any existing rights incident to a legal marriage, nor does it alter the shape of the marital relationship recognized by Florida law ... [T]he Act does not address the panoply of statutory rights and obligations exclusive to the traditional marriage relationship The Act does not create a legal relationship that, because of the interest of the state, gives rise to rights and obligations that survive the termination of the relationship. Unlike a traditional marriage, a domestic partnership is purely contractual, based on the mutual agreement of the parties.²⁵

Following the same line of analysis, the court also rejected an argument that the ordinance was preempted by s. 741.212, F.S., which prohibits marriage between individuals of the same sex, or “relationships between persons of the same sex which are treated as marriages in any jurisdiction”²⁶ The court found that the statute is directed at same-sex marriage or its equivalent and that the ordinance neither created a “marriage-like” relationship, nor was it limited to individuals of the same sex.²⁷

A registry provides an administrative system that establishes recognition of a domestic partnership. However, a domestic partnership may also be created by executing a civil contract between two unmarried people codifying how they wish to define their property and support rights both during a relationship and when it ends. A partnership agreement, which is a binding contract, may include provisions related to support, expenses, and finances; division of assets and liabilities on separation or termination; and rights in each other’s estate upon death or disability.²⁸ In the absence of a domestic partnership agreement, separate legal documents, such as a health care proxy or medical power of attorney, durable power of attorney, joint tenancy agreement or co-tenancy agreement, will, burial instructions or declaration as to remains, or cohabitation agreement may also define a relationship with a partner.

Florida courts have affirmed the validity of domestic partnership agreements. The Fifth District Court of Appeal found that an agreement for support between two unmarried people is valid, unless “inseparably based upon illicit consideration of sexual services.” In reaching its holding, the court considered the matter as one of individuals who, in the absence of the recognition of rights that flow naturally from a marital relationship, were exercising their constitutional private property and contract rights, which the court commented would apply to same-sex and opposite-sex unmarried couples alike.²⁹ The opinion was controversial at the time it was rendered and

²⁵ *Id.* at 1205-1206.

²⁶ Section 741.212, F.S.

²⁷ *Lowe*, *supra* note 22, at 1208.

²⁸ *Handbook*, *supra* note 18.

²⁹ *Posik v. Layton*, 695 So.2d 759, 762 (Fla. 5th DCA 1997). *But see Wakeman v. Dixon* 921 So.2d 669 (Fla. 1st DCA 2006, *reh’g denied* Feb. 28, 2006) (finding that an agreement executed between same-sex partners creates no enforceable rights regarding children).

critics contended it ignored the then recently-passed law creating s. 741.211, F.S., which prohibits marriage between same-sex partners.³⁰

Unmarried-Partner Households

The U.S. Census reports that:

Census 2000 enumerated 105 million households in the United States, of which the majority (52 percent) were maintained by married couples (54.5 million. A reflection of changing life styles is mirrored in Census 2000's enumeration of 5.5 million couples who were living together but who were not married, up from 3.2 million in 1990. These unmarried-partner households were selfidentified [sic] on the census form as being maintained by people who were sharing living quarters and who also had a close personal relationship with each other. The majority of these unmarried-partner households had partners of the opposite sex (4.9 million) but about 1 in 9 (594,000) had partners of the same sex.³¹

Of the 6.3 million households in Florida, 56 percent were married couple households. Unmarried-partner households totaled 369,622, or 10.4 percent of all coupled households. The majority of Florida's unmarried-partner households had partners of the opposite sex (328,574, or 9.2 percent of coupled holds), and 41,048 (1.2 percent of coupled households) had partners of the same sex.³²

III. Effect of Proposed Changes:

Sections 1 – 5 and 7 - 13 amend various provisions of the Florida Statutes to add parallel references to “domestic partnership” or “domestic partner” where references to “marriage” or “spouse” currently appear. The effect is to extend the rights or responsibilities of the statute to domestic partnerships; however, the bill does not otherwise change the underlying provision. The new references are added in statutes pertaining to:

- Mandatory and discretionary fees collected by clerks of court for filing petitions and records of dissolution of marriage (s. 28.101, F.S.);
- Service charges collected by clerks of court related to marriage licenses (s. 28.24, F.S.);
- Notice of name change due to marriage provided to the supervisor of elections (s. 97.1031, F.S.);
- The definition of “dissolution of marriage” as used in ch.382, F.S., relating to Vital Statistics (s. 382.002, F.S.);
- The responsibility of DOH to examine marriage certificate reports received from the county and circuit court (s. 382.003, F.S.);
- Reports transmitted to the DOH from the county and circuit court related to marriage licenses (s. 382.021, F.S.);

³⁰ Brett A. Barfield, *Are Same-Sex Prenuptial Agreements Enforceable in Florida? Posik v. Layton, Law and Policy*, 10 ST. THOMAS L. REV. 407, (Winter, 1998).

³¹ U.S. Census Bureau, *Married-Couple and Unmarried-Partner Households: 2000, Census Special Reports* (Feb. 2003), available at <http://www.census.gov/prod/2003pubs/censr-5.pdf> (last visited Feb. 12, 2013).

³² *Id.*

- The use of fees collected on marriage license applications to defray the cost incurred of maintaining marriage records (s. 382.022, F.S.);
- The use of fees collected for filing dissolution of marriage judgments to defray the cost incurred of maintaining dissolution-of-marriage records (s. 382.023, F.S.);
- The duty of DOH to provide certified copies of vital records (s. 382.025, F.S.);
- Fees collected by DOH for commemorative marriage records (s. 382.0255, F.S.);
- The authority of the Displaced Homemaker Trust Fund to receive funds generated by the additional fee on marriage license application and dissolution of marriage filings (s. 446.50, F.S.); and
- The definition of “family or household member” as the term is used in ss. 741.28-741.31, F.S., relating to domestic violence (s. 741.28, F.S.).

Section 6 amends s. 382.0085, F.S., to correct a cross-reference.

Section 14 creates s. 741.501, F.S., to provide legislative findings related to establishing and defining the rights and responsibilities of domestic partners. The bill finds: that a significant number of individuals live together in committed, familial relationships that involve personal, emotional, and economic commitments; these relationships assist the state by providing a network of support for the well-being of the participants; the state has an interest in promoting families and believes that all families should be able to obtain necessary legal protections and status; while there are some institutions that currently recognize domestic partnerships, these generally provide only limited rights and marriage is the primary or exclusive source of numerous other rights and responsibilities; the Legislature does not seek to alter the definition of marriage in article I, section 27 of the Florida Constitution, but finds that recognition of domestic partnerships provides an alternative mechanism for extending certain important rights and responsibilities; the decision to seek a ceremony or blessing over a domestic partnership is an individual choice and not a requirement of the bill; and these relationships provide material and other support to the participants and should be recognized and made uniform by law.

Section 15 creates s. 741.502, F.S., to provide definitions of “department,” “domestic partnership,” and “partner” as the terms are used in ss. 741.501-741.511, F.S. Specifically, “department” means DOH; a “domestic partnership” is a civil contract between two individuals who are at least 18 years of age, at least one of which is a Florida resident; and “partner” is someone joined in a domestic partnership.

Section 16 creates s. 741.503, F.S. to require DOH to prepare “Declaration of Domestic Partnership” and “Certificate of Registered Domestic Partnership” forms for distribution to each clerk of the court and the public.

Section 17 creates s. 741.504, F.S., to give the circuit court jurisdiction over proceedings relating to the rights and obligations of domestic partners. The bill requires the clerk of the court to maintain a registry of all domestic partnerships as a public record and to record all certificates of domestic partnership.

Section 18 creates s. 741.505, F.S., to establish the requirements of a domestic partnership that is recognized by the state. Specifically, the individuals must file a declaration that contains a statement attesting that each is 18 years of age or older, subject to reasonable proof of age by the

clerk, which may include proof by affidavit of a third party; a statement attesting that at least one person is a resident of the state; each person's mailing address; a statement consenting to the jurisdiction of the circuit courts in proceedings relating to the partnership; notarized signatures of both individuals; and a statement attesting to the truth of information set forth on the form. An individual who provides intentionally and materially false information commits a misdemeanor of the first degree. A clerk must register all partnerships that meet the legal requirements and issue the partners a certificate of registration that contains the clerk's seal.

Section 19 creates s. 741.507, F.S., to authorize a person who enters into a domestic partnership to retain or change his or her surname or, if changed, to return to the original surname during the partnership.

Section 20 creates s. 741.507, F.S., to establish the rights and responsibilities of individuals who are or were in a domestic partnership. The bill provides that any privilege, immunity, right, or benefit granted or any responsibility imposed by law, rule, or policy on an individual by marriage as an in-law is granted on equivalent terms to an individual who is or was in a domestic partnership or who is an in-law of a person who is in a domestic partnership. Any privilege, immunity, right, or benefit granted or any responsibility imposed by law, rule, or policy on a spouse, or on a former or surviving spouse, with respect to a child of either spouse is likewise granted or imposed on equivalent terms to an individual in a domestic partnership, or to a former or surviving partner, with respect to a child of either of the partners. The bill confers the same privileges, immunities, rights, benefits, and responsibilities that are granted under the tax laws of the state to spouses in a marriage, surviving spouses, and their children to partners or surviving partners of a domestic partnership, and their children. The bill acknowledges that the Legislature lacks jurisdiction to affect the control or implementation of federal laws. The bill does not require or permit the extension of any benefit under a retirement, deferred compensation, or other employee benefit plan, if the plan administrator reasonably believes doing so would affect the tax qualification or other favorable tax treatment of the plan under the Internal Revenue Service Code, and does not require the extension of a benefit under a plan that is regulated under the Employee Retirement Income Security Act of 1974.

Section 21 creates s. 741.508, F.S., to set forth circumstances under which a domestic partnership is prohibited or void. These include: when either partner currently has a different partner, wife, or husband who is alive; when the parties are related by lineal consanguinity or are siblings, or one is the niece or nephew of the other; or when either party lacks capacity to make or consent to a civil contract for want of legal age or sufficient understanding. A partnership is void if consent is coerced by force or fraud. A person may not file a new declaration of partnership or become married to someone other than the person with whom the partnership is registered, unless the previous domestic partnership has ended by judgment of dissolution or annulment or one partner has died.

Section 22 creates s. 741.509, F.S. to authorize the clerk of the court to collect the following fees: \$2 for receiving a declaration of domestic partnership; \$25 to be deposited in the Domestic Violence Trust Fund; \$7.50 for deposit in the Displaced Homemaker Trust Fund; \$25 for deposit into the General Revenue Fund; \$4 for distribution to DOH, pursuant to s. 382.022, F.S., to defray the cost of maintaining the vital statistics records. The bill allows an applicant who cannot afford a lump sum payment to pay the fees in three installments over a 90-day period.

Section 23 creates s. 741.510, F.S., to allow a domestic partnership to be proved by affidavit if the declaration has not been received or registered, as required by s. 741.505, F.S.; a certificate has been lost; or the certificate cannot be obtained by reason of death or other cause. The affidavit must be made by two witnesses who saw the declaration be executed and before an officer authorized to administer oaths. The affidavit may be filed and recorded with the clerk of the court with the same force and effect as if a certificate had been recorded.

Section 24 creates s. 741.511, F.S., to set forth procedures for terminating a domestic partnership. A state-registered partnership may be terminated by filing notice with DOH and paying a filing fee. The notice must be signed by one or both parties and notarized. If not signed by both parties, the notice must be accompanied by an affidavit stating that the party whose signature is missing has been served in writing, in the manner prescribed for civil summons; that a notice of termination is being filed; or that the party seeking termination has been unable to locate the party after reasonable effort and that notice has been made by publication. Notice by publication may be made as provided in ch. 50, F.S., relating to Legal and Official Advertisements, in the county where the domestic partners most recently resided. Termination of the partnership occurs 90 days after the notice of termination is filed and the fee paid. The bill requires DOH to register the notice of termination and issue a certificate of termination to each party. A partnership will also terminate if one or both parties marries either each other or someone else. The bill authorizes DOH to collect a fee, set by rule in an amount not to exceed \$50, to defray the cost of filing.

Section 25 reenacts s. 921.0024(1)(b), F.S., relating to the worksheet form for the Criminal Punishment Code, to incorporate the amendments made to s. 741.28, F.S., in a reference thereto.

Section 26 reenacts s. 943.171(2)(b), F.S., relating to the basic skills training for domestic violence cases, to incorporate the amendments made to s. 741.28, F.S., in a reference thereto.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill confers on partners, surviving partners, and their children all rights and responsibilities they would have if the partners are or were married. Thus, the bill will require local governments to extend benefits to their employees consistent with the requirements applicable to private sector employees which are described in the Private Sector Impact of this analysis. Whether that cost meets the threshold of Article VII, Section 18, relating to mandates, is difficult to estimate because of the uncertainty in projecting how many individuals would receive coverage and estimating the per capita cost to each local government of extending the benefit.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Whether the bill creates “a legal union that is treated as marriage or the substantial equivalent thereof” in violation of article I, section 27 of the Florida Constitution would be a matter of first impression in the courts. However, *Advisory Opinion To The Attorney General Re Florida Marriage Protection Amendment*, 926 So.2d 1229 (Fla. 2006) discussed above, suggests that a domestic partnership is not per se “the substantial equivalent” of marriage.

The plain meaning of these words, according to dictionary definition, is clear that the chief purpose of the amendment is to ensure that unions between same-sex couples that are treated *virtually identically* to marriage will not be recognized in Florida.³³

Stated differently, the case indicates that all non-traditional unions are not prohibited by the constitution, only those that exceed some as yet legally untested threshold on the continuum of relationships approaching marriage. A recent Wisconsin case sets forth an analytical framework that a Florida court might use in making the determination. Similar to the Florida Constitution, the Wisconsin Constitution recognizes only marriage between a man and a woman and prohibits a “legal status identical or substantially similar to that of marriage” for unmarried partners. To determine whether its domestic partnership law created a status that was substantially similar to marriage, a Wisconsin Court of Appeals compared the requirements for eligibility, formation, rights and obligations, and termination that applied to marriage and domestic partnership.³⁴ The case is not binding precedent in Florida; it serves only as a model Florida could adopt.

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

The bill imposes 14 fees or other charges on actions required to create, terminate, or obtain records related to a domestic partnership. With one exception, these same fees apply today in actions required to create, dissolve, or obtain records related to a marriage. Thus, subject to the one exception, the fees are not newly-created. They do, however, impose on citizens who choose to avail themselves of the law a financial obligation they do not have today.

The fiscal impact on revenues to the State Courts Revenue Trust Fund and the Court Education Trust Fund from civil filing fees cannot be accurately determined due to the unavailability of data needed to establish the increase resulting in the addition of dissolutions of domestic partnerships.

³³ *Advisory Opinion* at 1237 (emphasis supplied).

³⁴ *Apling v. Doyle*, Appeal No. 2011AP1572, Wisconsin Court of Appeals, 4th Dist. (Dec. 20, 2012).

B. Private Sector Impact:

The fiscal impact on the private sector is indeterminate. The bill confers on partners, surviving partners, and their children all rights and responsibilities they would have if the partners are or were married. At a minimum, this would require employers who offer health or other insurance benefits, such as disability or life, that include spouse or family coverage to extend coverage to a new group of beneficiaries, unless the employer has already made the coverage available voluntarily. The same would be true of retirement benefits unless one of the exceptions in the bill applied. Currently, there is a distinction in the federal tax code that results in a higher tax obligation on both employees who elect coverage for same-sex partners and their employers. The cost of coverage cannot be paid with pretax dollars, thus the estimated value of the employer's financial contribution towards health insurance coverage for non-dependent same-sex partners must be reported as taxable wages. The coverage is not taxable, however, if the partner qualifies as a dependent of the employee.

C. Government Sector Impact:

The Department of Health indicates the bill will require the Bureau of Vital Statistics to create a new computerized registration module in order to register and key-enter domestic partnership and dissolution of domestic partnerships into the official records database. The module will need to contain accounting and certification functions allowing for acceptance of payment and issuance of certified copies from authorized applicants. The bill also requires the DOH to create and print new forms; to design a new commemorative certificate; and to distribute forms and certificates, as necessary.

The primary fiscal impact will be the cost of the registration module, forms, and staff time to manage the increased workload. The DOH was not able to obtain data from other states' experience to estimate these costs, so it used an estimate of 10 percent of its marriage file, or 14,000 forms for each format. Estimated costs are:

Fiscal Impact	Fiscal Year 2013-14
Personnel: 1 FTE	\$22,765
Expenses	\$55,406
TOTAL	\$78,171

The DOH will receive a filing fee for each domestic partnership and dissolution of domestic partnership filed by the clerk of court and a certified copy fee for each record issued to authorized applicants.³⁵ Relying on the DOH's number of 14,000 records, fees authorized in the bill - \$4/application; \$5.97/dissolution, plus an additional fee of up to \$50, as determined by rule - will more than offset these costs.

³⁵ Dep't of Health, *Bill Analysis SB 196* (Jan. 31, 2013) (on file with the Senate Committee on Children, Families, and Elder Affairs).

The fiscal impact on expenditures of the State Courts System cannot be accurately determined due to the unavailability of data needed to quantify the increase in judicial workload.

The fiscal impact on the State Group Health Insurance is indeterminate. Factors affecting costs include the number of beneficiaries who enroll as a result of the bill, as well as their health status. If the new beneficiaries are healthy, the overall impact would be positive. If they are unhealthy, it would be negative. Paid claims in the first year will have a direct impact on the state in all plan options that are currently self-funded, and will have an impact in the second year, when providers adjust rates based on claims experience, for all other plans. The tax impact described in the Private Sector Impact of this analysis would be the same for the State of Florida. There will also be workload costs associated with the expanded coverage.

The fiscal impact on the Florida Retirement System is also indeterminate. Individuals who are retired as of the date the bill takes effect would not be eligible for the extended benefit because of provisions of law that prohibit changes in benefit choices once finalized. The impact resulting from the extension of benefits to current and future employees would need to be determined by an actuarial study, but could be significant. There would also be an expense associated with reprinting retirement brochures and related materials.

VI. Technical Deficiencies:

In section 8, a reference needs to be inserted s. 741.509(1)(d), F.S., which creates the authority for the clerk of court to collect the \$4 fee on applications for registration of a domestic partnership that is distributed to DOH pursuant to s. 382.022, F.S.

In section 17, language should be added that sets out the responsibility of the clerk to transmit all declarations of domestic partnership and judgments of dissolution to DOH. This parallels language in ss. 382.022 and. 382.023, F.S., related to vital statistics.

On line 522, the language “Notwithstanding s. 61.021,F.S.,” should be struck because it refers to a provision in the statutes relating to dissolution of marriage that has no bearing on domestic partnerships.

Lines 554 and 562 confer the rights and responsibilities that result because someone is related “by marriage as an in-law” on individuals in a domestic partnership; however, it is not clear what the term is intended to include.

On lines 583 – 584, the use of the term “of partners in a domestic partnership” could be construed to limit the rights under the tax laws to children of an intact partnership, only.

Line 658, the word “appropriate” should be deleted and the words “provided in subsection (1)” added to specify more clearly how fees collected by clerks of courts for registering domestic partnerships are distributed.

Section 24, which creates a process for terminating domestic partnerships pursuant to an administrative action of DOH, is inconsistent with other provision in the bill which require the clerk of court to maintain the registry.

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.

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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LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
03/13/2013	.	
	.	
	.	
	.	

The Committee on Children, Families, and Elder Affairs (Sobel) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsection (23) of section 28.24, Florida Statutes, is amended to read:

28.24 Service charges by clerk of the circuit court.—The clerk of the circuit court shall charge for services rendered by the clerk's office in recording documents and instruments and in performing the duties enumerated in amounts not to exceed those specified in this section. Notwithstanding any other provision of this section, the clerk of the circuit court shall provide



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13 without charge to the state attorney, public defender, guardian
14 ad litem, public guardian, attorney ad litem, criminal conflict
15 and civil regional counsel, and private court-appointed counsel
16 paid by the state, and to the authorized staff acting on behalf
17 of each, access to and a copy of any public record, if the
18 requesting party is entitled by law to view the exempt or
19 confidential record, as maintained by and in the custody of the
20 clerk of the circuit court as provided in general law and the
21 Florida Rules of Judicial Administration. The clerk of the
22 circuit court may provide the requested public record in an
23 electronic format in lieu of a paper format when capable of
24 being accessed by the requesting entity.

25
26 Charges

27
28 (23) Upon receipt of an application for a marriage license
29 or a declaration of domestic partnership, for preparing and
30 administering of oath; issuing, sealing, and recording of the
31 marriage license or registering the domestic partnership; and
32 providing a certified copy.....30.00

33 Section 2. Subsection (2) of section 97.1031, Florida
34 Statutes, is amended to read:

35 97.1031 Notice of change of residence, change of name, or
36 change of party affiliation.—

37 (2) When an elector seeks to change party affiliation, the
38 elector shall notify his or her supervisor of elections or other
39 voter registration official by using a signed written notice
40 that contains the elector's date of birth or voter registration
41 number. When an elector changes his or her name by marriage,



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42 domestic partnership, or other legal process, the elector shall
43 notify his or her supervisor of elections or other voter
44 registration official by using a signed written notice that
45 contains the elector's date of birth or voter's registration
46 number.

47 Section 3. Subsection (16) of section 382.002, Florida
48 Statutes, is amended to read:

49 382.002 Definitions.—As used in this chapter, the term:

50 (16) "Vital records" or "records" means certificates or
51 reports of birth, death, fetal death, marriage, domestic
52 partnership, dissolution of marriage, or notice of termination
53 of domestic partnership, name change filed pursuant to s. 68.07,
54 and data related thereto.

55 Section 4. Subsection (7) of section 382.003, Florida
56 Statutes, is amended to read:

57 382.003 Powers and duties of the department.—The department
58 shall:

59 (7) Approve all forms used in registering, recording,
60 certifying, and preserving vital records, or in otherwise
61 carrying out the purposes of this chapter, and ~~no~~ other forms
62 may not shall be used other than those approved by the
63 department. The department is responsible for the careful
64 examination of the certificates received monthly from the local
65 registrars and marriage certificates, certificates of domestic
66 partnership, ~~and~~ dissolution of marriage, and notice of
67 termination of domestic partnership reports received from the
68 circuit and county courts. A certificate that is complete and
69 satisfactory shall be accepted and given a state file number and
70 considered a state-filed record. If any such certificates are



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71 incomplete or unsatisfactory, the department shall require
72 further information to be supplied as ~~may be~~ necessary to make
73 the record complete and satisfactory. All physicians, midwives,
74 informants, or funeral directors, and all other persons having
75 knowledge of the facts, are required to supply, upon a form
76 approved by the department or upon the original certificate,
77 such information as they may possess regarding any vital record.

78 Section 5. Section 382.021, Florida Statutes, is amended to
79 read:

80 382.021 Department to receive marriage licenses and
81 declarations of domestic partnership.—On or before the 5th day
82 of each month, the county court judge or clerk of the circuit
83 court shall transmit to the department all original marriage
84 licenses, with endorsements, and all declarations of domestic
85 partnership received during the preceding calendar month, ~~to the~~
86 ~~department~~. Any marriage licenses or declarations of domestic
87 partnership issued and not returned, or any marriage licenses
88 returned but not recorded, shall be reported by the issuing
89 county court judge or clerk of the circuit court to the
90 department at the time of transmitting the recorded licenses or
91 declarations on the forms to be prescribed and furnished by the
92 department. If during any month no marriage licenses or
93 declarations of domestic partnership are issued or returned, the
94 county court judge or clerk of the circuit court shall report
95 such fact to the department upon forms prescribed and furnished
96 by the department.

97 Section 6. Section 382.022, Florida Statutes, is amended to
98 read:

99 382.022 Marriage application; registration of domestic



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100 partnership; fees.—Upon the receipt of each application for the
101 issuance of a marriage license or registering a domestic
102 partnership, the county court judge or clerk of the circuit
103 court shall, pursuant to s. 741.02, or s. 741.509(1)(d), collect
104 and receive a fee of \$4 which shall be remitted to the
105 Department of Revenue for deposit to the Department of Health to
106 defray part of the cost of maintaining marriage and domestic
107 partnership records.

108 Section 7. Section 382.023, Florida Statutes, is amended to
109 read:

110 382.023 Department to receive dissolution-of-marriage and
111 notice of termination-of-domestic partnership records; fees. —
112 ~~Clerks of the circuit courts shall collect for their services~~ At
113 the time of the filing of a final judgment of dissolution of
114 marriage or notice of termination of domestic partnership, the
115 clerk of the circuit court shall collect a fee of up to \$10.50,
116 of which 43 percent shall be retained by the clerk ~~of the~~
117 ~~circuit court~~ as a part of the cost in the cause in which the
118 judgment is granted or the cost of maintaining the domestic
119 partnership registry required by s. 741.504(2). The remaining 57
120 percent shall be remitted to the Department of Revenue for
121 deposit to the Department of Health to defray part of the cost
122 of maintaining the dissolution-of-marriage and termination-of-
123 domestic-partnership records. A record of each and every
124 judgment of dissolution of marriage granted by the court during
125 the preceding calendar month and a record of each and every
126 notice of termination-of-domestic-partnership filed with the
127 clerk of the circuit court, giving names of parties and such
128 other data as required by forms prescribed by the department,



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129 shall be transmitted to the department, on or before the 10th
130 day of each month, along with an accounting of the funds
131 remitted to the Department of Revenue pursuant to this section.

132 Section 8. Paragraph (a) of subsection (1) and paragraphs
133 (a) and (c) of subsection (2) of section 382.025, Florida
134 Statutes, are amended to read:

135 382.025 Certified copies of vital records; confidentiality;
136 research.—

137 (1) BIRTH RECORDS.—Except for birth records over 100 years
138 old which are not under seal pursuant to court order, all birth
139 records of this state shall be confidential and are exempt from
140 the provisions of s. 119.07(1).

141 (a) Certified copies of the original birth certificate or a
142 new or amended certificate, or affidavits thereof, are
143 confidential and exempt from the provisions of s. 119.07(1) and,
144 upon receipt of a request and payment of the fee prescribed in
145 s. 382.0255, shall be issued only as authorized by the
146 department and in the form prescribed by the department, and
147 only:

148 1. To the registrant, if the registrant is of legal age, is
149 a certified homeless youth, or is a minor who has had the
150 disabilities of nonage removed under s. 743.01 or s. 743.015;

151 2. To the registrant's parent or guardian or other legal
152 representative;

153 3. Upon receipt of the registrant's death certificate, to
154 the registrant's spouse or domestic partner or to the
155 registrant's child, grandchild, or sibling, if of legal age, or
156 to the legal representative of any of such persons;

157 4. To any person if the birth record is over 100 years old



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158 and not under seal pursuant to court order;

159 5. To a law enforcement agency for official purposes;

160 6. To any agency of the state or the United States for
161 official purposes upon approval of the department; or

162 7. Upon order of any court of competent jurisdiction.

163 (2) OTHER RECORDS.—

164 (a) The department shall authorize the issuance of a
165 certified copy of all or part of any marriage, domestic
166 partnership, dissolution of marriage, notice of termination of
167 domestic partnership, or death or fetal death certificate,
168 excluding that portion which is confidential and exempt from ~~the~~
169 ~~provisions of~~ s. 119.07(1) as provided under s. 382.008, to any
170 person requesting it upon receipt of a request and payment of
171 the fee prescribed by this section. A certification of the death
172 or fetal death certificate which includes the confidential
173 portions shall be issued only:

174 1. To the registrant's spouse, domestic partner, or parent,
175 or to the registrant's child, grandchild, or sibling, if of
176 legal age, or to any person who provides a will that has been
177 executed pursuant to s. 732.502, insurance policy, or other
178 document that demonstrates his or her interest in the estate of
179 the registrant, or to any person who provides documentation that
180 he or she is acting on behalf of any of them;

181 2. To any agency of the state or local government or the
182 United States for official purposes upon approval of the
183 department; or

184 3. Upon order of any court of competent jurisdiction.

185 (c) The department shall issue, upon request and upon
186 payment of an additional fee prescribed by this section, a



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187 commemorative marriage license or certificate of domestic
188 partnership representing that the marriage or domestic
189 partnership of the persons named thereon is recorded in the
190 office of the registrar. The certificate issued under this
191 paragraph must ~~shall~~ be in a form consistent with the need to
192 protect the integrity of vital records but must ~~shall~~ be
193 suitable for display. It may bear the seal of the state printed
194 thereon and may be signed by the Governor.

195 Section 9. Paragraph (i) of subsection (1) of section
196 382.0255, Florida Statutes, is amended to read:

197 382.0255 Fees.—

198 (1) The department is entitled to fees, as follows:

199 (i) Twenty-five dollars for a commemorative certificate of
200 birth, ~~or~~ marriage, or domestic partnership. Fees collected
201 pursuant to this paragraph in excess of expenses shall be used
202 ~~available for use~~ by the Regional Perinatal Intensive Care
203 Centers (RPICC) Program to prevent child abuse and neglect.
204 Funds derived from the issuance of commemorative marriage
205 certificates shall be used ~~available for use~~ by the Improved
206 Pregnancy Outcome Program.

207 Section 10. Paragraph (b) of subsection (5) of section
208 446.50, Florida Statutes, is amended to read:

209 446.50 Displaced homemakers; multiservice programs; report
210 to the Legislature; Displaced Homemaker Trust Fund created.—

211 (5) DISPLACED HOMEMAKER TRUST FUND.—

212 (b) The trust fund shall receive funds generated from an
213 additional fee on marriage license applications, declarations of
214 domestic partnerships, and dissolution of marriage filings as
215 specified in ss. 741.01(3), 741.509, and 28.101, respectively,



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216 and may receive funds from any other public or private source.

217 Section 11. Subsection (3) of section 741.28, Florida
218 Statutes, is amended to read:

219 741.28 Domestic violence; definitions.—As used in ss.
220 741.28–741.31:

221 (3) “Family or household member” means spouses;; former
222 spouses;; persons related by blood, ~~or~~ marriage, or domestic
223 partnership; persons who are presently residing together as if a
224 family or who have resided together in the past as if a family;;
225 and persons who are parents of a child in common regardless of
226 whether they have been married. With the exception of persons
227 who have a child in common, the family or household members must
228 be currently residing or have in the past resided together in
229 the same single dwelling unit.

230 Section 12. Section 741.501, Florida Statutes, is created
231 to read:

232 741.501 Legislative findings.—The Legislature finds that:

233 (1) There are a significant number of individuals in this
234 state who live together in important, personal, emotional, and
235 economically committed relationships. Together, these
236 individuals live, serve, and participate in the community, and
237 often rear children and care for family members.

238 (2) These familial relationships, often referred to as
239 domestic partnerships, assist the state by providing a private
240 network of support for the financial, physical, and emotional
241 health of their participants.

242 (3) The state has a strong interest in promoting stable and
243 lasting families, and believes that all families should be
244 provided with the opportunity to obtain necessary legal



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245 protections and status and the ability to achieve their fullest
246 potential.

247 (4) While some public and private institutions recognize
248 domestic partnerships for limited purposes such as health
249 benefits, hospital visitation, and medical decisionmaking for an
250 incapacitated family member, many do not. Historically, legal
251 recognition of marriage by the state is the primary and, in a
252 number of instances, the exclusive source of numerous rights,
253 benefits, and responsibilities available to families under the
254 laws of this state.

255 (5) The status of marriage in this state is limited by Art.
256 I of the State Constitution to the union of one man and one
257 woman and the Legislature does not seek to alter the definition
258 of marriage in any way. The Legislature also finds, however,
259 that recognition of domestic partnerships can provide an
260 alternative mechanism for extending certain important rights and
261 responsibilities to individuals who choose to form long-term,
262 mutually supportive relationships. Such recognition will provide
263 support to these familial relationships without affecting the
264 definition of marriage, without creating or recognizing a legal
265 relationship that is the substantial equivalent of marriage, and
266 without affecting restrictions contained in federal law.

267 (6) The decision to offer or seek a ceremony or blessing
268 over the domestic partnership should be left to the dictates of
269 each religious faith and to the preferences of the persons
270 entering into the partnership. Sections 741.501-741.511 do not
271 require performance of any solemnization ceremony to enter into
272 a binding domestic partnership agreement and do not interfere
273 with the right of each religious faith to choose freely to whom



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274 to grant the religious status, sacrament, or blessing of
275 marriage under the rules and practices of that faith.

276 (7) Because of the material and other support that these
277 familial relationships provide to their participants, these
278 relationships should be formally recognized and made uniform by
279 law. Therefore, the Legislature declares that it is the policy
280 of this state to establish and define the rights and
281 responsibilities of domestic partners.

282 Section 13. Section 741.502, Florida Statutes, is created
283 to read:

284 741.502 Definitions.—As used in ss. 741.501-741.511, the
285 term:

286 (1) "Department" means the Department of Health.

287 (2) "Domestic partnership" means a civil contract entered
288 into between two individuals who are 18 years of age or older
289 and otherwise capable, of which at least one of whom is a
290 resident of this state.

291 (3) "Partner" means an individual joined in a domestic
292 partnership.

293 Section 14. Section 741.503, Florida Statutes, is created
294 to read:

295 741.503 Forms.—

296 (1) Pursuant to s. 382.003(7), the department shall prepare
297 forms entitled:

298 (a) "Declaration of Domestic Partnership" which meet the
299 requirements of s. 741.505.

300 (b) "Certificate of Registered Domestic Partnership."

301 (2) The department shall distribute the Declaration of
302 Domestic Partnership and Certificate of Registered Domestic



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303 Partnership forms to each clerk of the circuit court. The
304 department and each clerk shall make the Declaration of Domestic
305 Partnership form available to the public.

306 Section 15. Section 741.504, Florida Statutes, is created
307 to read:

308 741.504 Court jurisdiction and duties; registry.-

309 (1) The circuit court has jurisdiction over any proceeding
310 relating to the domestic partners' rights and obligations.

311 (2) Each clerk of the circuit court shall maintain a
312 registry of all domestic partnerships entered into in that
313 county and a record of all certificates of domestic partnership
314 issued, which includes the names of the partners and the date of
315 issuance, and a record of all notices of termination of domestic
316 partnership filed, which includes the name of the party filing
317 and the date of filing.

318 (3) The clerk of the circuit court shall transmit to the
319 department all original declarations of domestic partnership in
320 accordance with s. 382.021 and all notices of termination of
321 domestic partnership in accordance with s. 382.023.

322 (4) Notwithstanding s. 382.025 or any other law, the
323 registry of domestic partnerships maintained by a clerk of the
324 circuit court is a public record and subject to full disclosure.

325 Section 16. Section 741.505, Florida Statutes, is created
326 to read:

327 741.505 Domestic partnership requirements.-

328 (1) Two individuals wishing to become partners in a
329 domestic partnership recognized by this state must complete and
330 file a Declaration of Domestic Partnership form with a clerk of
331 the circuit court. The declaration must include:



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332 (a) A statement attesting that each individual is 18 years
333 of age or older and is otherwise capable of entering into a
334 domestic partnership. The clerk may accept any reasonable proof
335 of an individual's age which is satisfactory to the clerk. The
336 clerk may also require proof of age by affidavit of some
337 individual other than the parties seeking to file the form if
338 the clerk deems it necessary.

339 (b) A statement attesting that at least one of the
340 individuals is a resident of this state.

341 (c) Each individual's mailing address.

342 (d) A statement attesting that each individual consents to
343 the jurisdiction of the circuit courts of this state for any
344 proceeding relating to the partners' rights and obligations,
345 even if one or both partners cease to reside or maintain a
346 domicile in this state.

347 (e) The notarized signature of each individual, along with
348 a declaration that the representations made on the form are
349 true, correct, and contain no material omissions of fact to the
350 best knowledge and belief of each individual.

351 (2) Each person signing a Declaration of Domestic
352 Partnership form consents to the jurisdiction of the circuit
353 courts of this state for any proceeding related to the partners'
354 rights and obligations, even if one or both partners cease to
355 reside or maintain a domicile in this state.

356 (3) A person who provides intentionally and materially
357 false information on a Declaration of Domestic Partnership form
358 with the clerk of court commits a misdemeanor of the first
359 degree, punishable as provided in s. 775.082 or s. 775.083.

360 (4) If all legal requirements have been satisfied and there



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361 appears to be no impediment to the domestic partnership, the
362 clerk of the circuit court shall:

363 (a) Return a copy of the registered form to the partners;

364 (b) Register the Declaration of Domestic Partnership in a
365 domestic partnership registry; and

366 (c) Issue a Certificate of Registered Domestic Partnership
367 under his or her hand and seal to the partners in person or at
368 the mailing address provided by the partners.

369 Section 17. Section 741.506, Florida Statutes, is created
370 to read:

371 741.506 Domestic partnership; name change.—Upon entering
372 into a domestic partnership, a partner may retain his or her
373 previous surname, or, if changed, may resume the previous legal
374 name during the domestic partnership.

375 Section 18. Section 741.507, Florida Statutes, is created
376 to read:

377 741.507 Domestic partnership; rights and responsibilities;
378 relationship to federal law.—

379 (1) Any privilege, immunity, right, or benefit granted by
380 statute, administrative or court rule, policy, common law, or
381 any other law to an individual because the individual is or was
382 married, or because the individual is or was an in-law in a
383 specified way to another individual, is granted on equivalent
384 terms, substantive and procedural, to an individual because the
385 individual is or was in a domestic partnership or because the
386 individual is or was, based on a domestic partnership, related
387 in a specified way to another individual.

388 (2) Any responsibility imposed by statute, administrative
389 or court rule, policy, common law, or any other law on an



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390 individual because the individual is or was married, or because
391 the individual is or was an in-law in a specified way to another
392 individual, is imposed on equivalent terms, substantive and
393 procedural, on an individual because the individual is or was in
394 a domestic partnership or because the individual is or was,
395 based on a domestic partnership, related in a specified way to
396 another individual.

397 (3) Any privilege, immunity, right, benefit, or
398 responsibility granted to or imposed by statute, administrative
399 or court rule, policy, common law, or any other law on a spouse
400 with respect to a child of either of the spouses is granted to
401 or imposed on equivalent terms, substantive and procedural, on
402 an individual in a domestic partnership with respect to a child
403 of either of the partners.

404 (4) Any privilege, immunity, right, benefit, or
405 responsibility granted or imposed by statute, administrative or
406 court rule, policy, common law, or any other law to or on a
407 former or surviving spouse with respect to a child of either of
408 the spouses is granted to or imposed on equivalent terms,
409 substantive and procedural, on a former or surviving partner
410 with respect to a child of either of the partners.

411 (5) For purposes of administering the tax laws of this
412 state, partners in a domestic partnership, surviving partners of
413 a domestic partnership, and their children have the same
414 privileges, immunities, rights, benefits, and responsibilities
415 as are granted to or imposed on spouses in a marriage, surviving
416 spouses, and their children.

417 (6) Many of the laws of this state are intertwined with
418 federal law, and the Legislature recognizes that it does not



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419 have the jurisdiction to control or implement federal laws or
420 the privileges, immunities, rights, benefits, and
421 responsibilities related to federal laws.

422 (7) Sections 741.502-741.511 do not require or permit the
423 extension of any benefit under any retirement, deferred
424 compensation, or other employee benefit plan, if the plan
425 administrator reasonably concludes that the extension of
426 benefits would conflict with a condition for the tax
427 qualification of the plan, or a condition for other favorable
428 tax treatment of the plan, under the Internal Revenue Code or
429 adopted regulations.

430 (8) Sections 741.502-741.511 do not require the extension
431 of any benefit under any employee benefit plan that is subject
432 to federal regulation under the Employee Retirement Income
433 Security Act of 1974.

434 Section 19. Section 741.508, Florida Statutes, is created
435 to read:

436 741.508 Domestic partnerships prohibited and void.-

437 (1) The following domestic partnerships are prohibited and
438 void if:

439 (a) Either party to the domestic partnership currently has
440 a different partner, or a wife or husband recognized by this
441 state, living at the time of entering into the domestic
442 partnership.

443 (b) The parties to the domestic partnership are related by
444 lineal consanguinity or are siblings, or if one party is the
445 niece or nephew of the other party.

446 (c) Either party to a domestic partnership is incapable of
447 making the civil contract or consenting to the contract for want



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448 of legal age or sufficient understanding.

449 (2) If the consent of either party is obtained by force or
450 fraud, the domestic partnership is void from the time it is so
451 declared by a judgment of a court having jurisdiction of the
452 domestic partnership.

453 (3) An individual who has filed a Declaration of Domestic
454 Partnership form may not file a new Declaration of Domestic
455 Partnership form or enter a marriage recognized in this state
456 with someone other than the individual's registered partner
457 unless a notice of termination of the most recent domestic
458 partnership has been entered. This prohibition does not apply if
459 the previous domestic partnership ended because one of the
460 partners died.

461 Section 20. Section 741.509, Florida Statutes, is created
462 to read:

463 741.509 Fees.—

464 (1) The clerk of the circuit court shall collect and
465 receive a fee of \$2 for receiving a Declaration of Domestic
466 Partnership form completed in accordance with s. 741.505. In
467 addition:

468 (a) A fee of \$25 shall be collected and deposited in the
469 Domestic Violence Trust Fund for the purposes provided in s.
470 741.01(2).

471 (b) A fee of \$7.50 shall be collected for deposit in the
472 Displaced Homemaker Trust Fund created in s. 446.50.

473 (c) A fee of \$25 shall be collected and remitted to the
474 Department of Revenue for deposit, monthly, into the General
475 Revenue Fund.

476 (d) A fee of \$4 shall be collected and distributed as



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477 provided in s. 382.022.

478 (2) An applicant for a Certificate of Registered Domestic
479 Partnership who is unable to pay the fees required under
480 subsection (1) in a lump sum may make payment in not more than
481 three installments over a period of 90 days. The clerk shall
482 accept installment payments upon receipt of an affidavit that
483 the applicant is unable to pay the fees in a lump-sum payment.
484 Upon receipt of the third or final installment payment, the
485 Declaration of Domestic Partnership shall be deemed filed, and
486 the clerk shall issue the Certificate of Registered Domestic
487 Partnership and distribute the fees as provided in subsection
488 (1). If the fee is paid in installments, the clerk shall retain
489 \$1 from the additional fee imposed pursuant to paragraph (1) (c)
490 as a processing fee.

491 Section 21. Section 741.510, Florida Statutes, is created
492 to read:

493 741.510 Proof domestic partnership where certificate is not
494 available.—If a Declaration of Domestic Partnership has been
495 received in accordance with s. 741.505 and the clerk has not
496 registered such declaration as required by that section, if a
497 Certificate of Registered Domestic Partnership has been lost, or
498 if by reason of death or other cause the certificate cannot be
499 obtained, the domestic partnership may be proved by affidavit
500 before any officer authorized to administer oaths made by two
501 competent witnesses who were present and saw the Declaration of
502 Domestic Partnership executed under s. 741.505, which affidavit
503 may be filed and recorded in the office of clerk of the circuit
504 in which the Declaration of Domestic Partnership was registered,
505 with the same force and effect as if the proper certificate has



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506 been made, returned, and recorded.

507 Section 22. Section 741.511, Florida Statutes, is created
508 to read:

509 741.511 Termination of partnership.-

510 (1) (a) A party to a state-registered domestic partnership
511 may terminate the relationship by filing a notice of termination
512 of the domestic partnership with the clerk of the circuit court
513 and paying the filing fee established under s. 382.023. The
514 notice must be signed by one or both parties and notarized. If
515 the notice is not signed by both parties, the party seeking
516 termination must also file with the clerk an affidavit stating
517 either that the other party has been served in writing in the
518 manner prescribed for the service of summons in a civil action,
519 that a notice of termination is being filed, or that the party
520 seeking termination has not been able to find the other party
521 after reasonable effort and that notice has been made by
522 publication pursuant to paragraph (b).

523 (b) When the other party cannot be found after reasonable
524 effort, the party seeking termination may provide notice by
525 publication as provided in chapter 50 in the county in which the
526 residence most recently shared by the domestic partners is
527 located. Notice must be published at least once.

528 (2) The domestic partnership shall be terminated effective
529 90 days after the date of filing the notice of termination and
530 payment of the filing fee.

531 (3) Upon receipt of a signed, notarized notice of
532 termination, affidavit, if required, and the filing fee, the
533 clerk of the circuit court shall file the notice of termination
534 and provide a certificate of termination of the domestic



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535 partnership to each party named on the notice. The clerk shall
536 maintain a record of each notice of termination filed and each
537 certificate of termination issued in the registry required by s.
538 741.504(2).

539 (4) A domestic partnership is automatically terminated if,
540 subsequent to the registration of the domestic partnership,
541 either party or both parties enter into a marriage that is
542 recognized as valid in this state, either with each other or
543 with another person.

544 Section 23. For the purpose of incorporating the amendment
545 made by this act to section 741.28, Florida Statutes, in a
546 reference thereto, paragraph (b) of subsection (1) of section
547 921.0024, Florida Statutes, is reenacted to read:

548 921.0024 Criminal Punishment Code; worksheet computations;
549 scoresheets.—

550 (1)

551 (b) WORKSHEET KEY:

552
553 Legal status points are assessed when any form of legal status
554 existed at the time the offender committed an offense before the
555 court for sentencing. Four (4) sentence points are assessed for
556 an offender's legal status.

557
558 Community sanction violation points are assessed when a
559 community sanction violation is before the court for sentencing.
560 Six (6) sentence points are assessed for each community sanction
561 violation and each successive community sanction violation,
562 unless any of the following apply:

563 1. If the community sanction violation includes a new



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564 felony conviction before the sentencing court, twelve (12)
565 community sanction violation points are assessed for the
566 violation, and for each successive community sanction violation
567 involving a new felony conviction.

568 2. If the community sanction violation is committed by a
569 violent felony offender of special concern as defined in s.
570 948.06:

571 a. Twelve (12) community sanction violation points are
572 assessed for the violation and for each successive violation of
573 felony probation or community control where:

574 (I) The violation does not include a new felony conviction;
575 and

576 (II) The community sanction violation is not based solely
577 on the probationer or offender's failure to pay costs or fines
578 or make restitution payments.

579 b. Twenty-four (24) community sanction violation points are
580 assessed for the violation and for each successive violation of
581 felony probation or community control where the violation
582 includes a new felony conviction.

583
584 Multiple counts of community sanction violations before the
585 sentencing court shall not be a basis for multiplying the
586 assessment of community sanction violation points.

587
588 Prior serious felony points: If the offender has a primary
589 offense or any additional offense ranked in level 8, level 9, or
590 level 10, and one or more prior serious felonies, a single
591 assessment of thirty (30) points shall be added. For purposes of
592 this section, a prior serious felony is an offense in the



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593 offender's prior record that is ranked in level 8, level 9, or
594 level 10 under s. 921.0022 or s. 921.0023 and for which the
595 offender is serving a sentence of confinement, supervision, or
596 other sanction or for which the offender's date of release from
597 confinement, supervision, or other sanction, whichever is later,
598 is within 3 years before the date the primary offense or any
599 additional offense was committed.

600
601 Prior capital felony points: If the offender has one or more
602 prior capital felonies in the offender's criminal record, points
603 shall be added to the subtotal sentence points of the offender
604 equal to twice the number of points the offender receives for
605 the primary offense and any additional offense. A prior capital
606 felony in the offender's criminal record is a previous capital
607 felony offense for which the offender has entered a plea of nolo
608 contendere or guilty or has been found guilty; or a felony in
609 another jurisdiction which is a capital felony in that
610 jurisdiction, or would be a capital felony if the offense were
611 committed in this state.

612
613 Possession of a firearm, semiautomatic firearm, or machine gun:
614 If the offender is convicted of committing or attempting to
615 commit any felony other than those enumerated in s. 775.087(2)
616 while having in his or her possession: a firearm as defined in
617 s. 790.001(6), an additional eighteen (18) sentence points are
618 assessed; or if the offender is convicted of committing or
619 attempting to commit any felony other than those enumerated in
620 s. 775.087(3) while having in his or her possession a
621 semiautomatic firearm as defined in s. 775.087(3) or a machine



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622 gun as defined in s. 790.001(9), an additional twenty-five (25)
623 sentence points are assessed.

624

625 Sentencing multipliers:

626

627 Drug trafficking: If the primary offense is drug trafficking
628 under s. 893.135, the subtotal sentence points are multiplied,
629 at the discretion of the court, for a level 7 or level 8
630 offense, by 1.5. The state attorney may move the sentencing
631 court to reduce or suspend the sentence of a person convicted of
632 a level 7 or level 8 offense, if the offender provides
633 substantial assistance as described in s. 893.135(4).

634

635 Law enforcement protection: If the primary offense is a
636 violation of the Law Enforcement Protection Act under s.
637 775.0823(2), (3), or (4), the subtotal sentence points are
638 multiplied by 2.5. If the primary offense is a violation of s.
639 775.0823(5), (6), (7), (8), or (9), the subtotal sentence points
640 are multiplied by 2.0. If the primary offense is a violation of
641 s. 784.07(3) or s. 775.0875(1), or of the Law Enforcement
642 Protection Act under s. 775.0823(10) or (11), the subtotal
643 sentence points are multiplied by 1.5.

644

645 Grand theft of a motor vehicle: If the primary offense is grand
646 theft of the third degree involving a motor vehicle and in the
647 offender's prior record, there are three or more grand thefts of
648 the third degree involving a motor vehicle, the subtotal
649 sentence points are multiplied by 1.5.

650



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651 Offense related to a criminal gang: If the offender is convicted
652 of the primary offense and committed that offense for the
653 purpose of benefiting, promoting, or furthering the interests of
654 a criminal gang as prohibited under s. 874.04, the subtotal
655 sentence points are multiplied by 1.5.

656
657 Domestic violence in the presence of a child: If the offender is
658 convicted of the primary offense and the primary offense is a
659 crime of domestic violence, as defined in s. 741.28, which was
660 committed in the presence of a child under 16 years of age who
661 is a family or household member as defined in s. 741.28(3) with
662 the victim or perpetrator, the subtotal sentence points are
663 multiplied by 1.5.

664 Section 24. For the purpose of incorporating the amendment
665 made by this act to section 741.28, Florida Statutes, in a
666 reference thereto, paragraph (b) of subsection (2) of section
667 943.171, Florida Statutes, is reenacted to read:

668 943.171 Basic skills training in handling domestic violence
669 cases.—

670 (2) As used in this section, the term:

671 (b) "Household member" has the meaning set forth in s.
672 741.28(3).

673 Section 25. This act shall take effect July 1, 2013.

674
675 ===== T I T L E A M E N D M E N T =====

676 And the title is amended as follows:

677 Delete everything before the enacting clause
678 and insert:

679 A bill to be entitled



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680 An act relating to families first; amending s. 28.24,
681 F.S.; setting forth fees and costs to be applied when
682 registering a domestic partnership; amending s.
683 97.1031, F.S.; providing notice to the supervisor of
684 elections concerning a change of name due to
685 participation in a domestic partnership; amending s.
686 382.002, F.S.; including domestic partnerships and
687 terminations of domestic partnership as vital records
688 in this state; amending s. 382.003, F.S.; requiring
689 the Department of Health to examine all certificates
690 of domestic partnership forms and notices of
691 termination of domestic partnership reports sent from
692 the courts; amending s. 382.021, F.S.; requiring the
693 clerk of the circuit court to transmit all original
694 declarations of domestic partnership to the Department
695 of Health by a specified date each month; amending s.
696 382.022, F.S.; requiring the clerk of the circuit
697 court to collect a fee after registering a domestic
698 partnership; amending s. 382.023, F.S.; requiring the
699 clerk of the circuit court to collect a fee upon
700 filing a notice of termination of a domestic
701 partnership; requiring the clerk of the circuit court
702 to transmit records of terminations of domestic
703 partnerships to the Department of Health by a
704 specified date each month; amending s. 382.025, F.S.;
705 authorizing the Department of Health to issue a
706 certified copy of certain vital records to a domestic
707 partner; amending s. 382.0255, F.S.; providing that
708 the Department of Health is entitled to a specified



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709 fee for the issuance of a commemorative certificate of
710 domestic partnership; amending s. 446.50, F.S.;
711 requiring that certain fees relating to declarations
712 of domestic partnership be deposited in the Displaced
713 Homemaker Trust Fund; amending s. 741.28, F.S.;
714 redefining the term "family or household member" in
715 the context of domestic violence to include a domestic
716 partnership; creating s. 741.501, F.S.; providing
717 legislative findings; creating s. 741.502, F.S.;
718 defining terms; creating s. 741.503, F.S.; requiring
719 the Department of Health to create and distribute the
720 Declaration of Domestic Partnership and Certificate of
721 Registered Domestic Partnership forms to each clerk of
722 the circuit court; requiring the department and each
723 clerk of the circuit court to make the Declaration of
724 Domestic Partnership form available to the public;
725 creating s. 741.504, F.S.; providing that the circuit
726 court has jurisdiction over domestic partnership
727 proceedings; requiring the clerk of the circuit court
728 to maintain a domestic partnership registry; requiring
729 the clerk of the circuit court to transmit records
730 related to domestic partnerships to the Department of
731 Health as required by law; providing that the registry
732 is a public record; creating s. 741.505, F.S.;
733 requiring two individuals who wish to become partners
734 in a domestic partnership to complete and file a
735 Declaration of Domestic Partnership form with the
736 clerk of the circuit court; specifying the required
737 contents of the completed form; providing that each



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738 partner who signs the form consents to the
739 jurisdiction of the circuit court for certain
740 purposes; providing that if a person files an
741 intentionally and materially false form, he or she
742 commits a misdemeanor of the first degree; providing
743 criminal penalties; requiring the clerk of the circuit
744 court to register the Declaration of Domestic
745 Partnership in a domestic partnership registry and
746 issue a Certificate of Registered Domestic
747 Partnership; creating s. 741.506, F.S.; authorizing
748 the domestic partners to retain surnames; creating s.
749 741.507, F.S.; providing that any privilege or
750 responsibility granted or imposed by statute,
751 administrative or court rule, policy, common law, or
752 any other law to an individual because the individual
753 is or was related to another by marriage, is or was an
754 in-law, or is a child of either of the spouses, is
755 granted on equivalent terms to domestic partners or
756 individuals similarly related to domestic partners;
757 providing that the act does not require or authorize
758 the extension of any benefit under a retirement,
759 deferred compensation, or other employee benefit plan,
760 if the plan administrator reasonably concludes that
761 the extension of benefits to partners would conflict
762 with a condition for tax qualification of the plan, or
763 a condition for other favorable tax treatment of the
764 plan, under the Internal Revenue Code; creating s.
765 741.508, F.S.; specifying prohibited or void domestic
766 partnerships; creating s. 741.509, F.S.; requiring



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767 that the clerk of the circuit court collect certain
768 fees for receiving a Declaration of Domestic
769 Partnership; authorizing the clerk of the circuit
770 court to accept installment payments from individuals
771 who are unable to pay the fees in a lump sum; creating
772 s. 741.510, F.S.; providing methods to prove the
773 existence of a registered Declaration Domestic
774 Partnership when the certificate document has been
775 lost or is otherwise unavailable; creating s. 741.511,
776 F.S.; providing for termination of a domestic
777 partnership; providing for notice; providing for the
778 effective date of the termination; providing for
779 registration of the termination; requiring records of
780 certain terminations to be maintained; providing for
781 automatic termination of partnership if either party
782 enters into a valid marriage; reenacting ss.
783 921.0024(1)(b) and 943.171(2)(b), F.S., relating to
784 the worksheet form for the Criminal Punishment Code
785 and the basic skills training for domestic violence
786 cases, respectively, to incorporate the amendments
787 made to s. 741.28, F.S., in references thereto;
788 providing an effective date.



180026

LEGISLATIVE ACTION

Senate	.	House
	.	
	.	
	.	
	.	
	.	

The Committee on Children, Families, and Elder Affairs (Sobel) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsection (29) is added to section 28.24, Florida Statutes, to read:

28.24 Service charges by clerk of the circuit court.—The clerk of the circuit court shall charge for services rendered by the clerk's office in recording documents and instruments and in performing the duties enumerated in amounts not to exceed those specified in this section. Notwithstanding any other provision of this section, the clerk of the circuit court shall provide



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13 without charge to the state attorney, public defender, guardian
14 ad litem, public guardian, attorney ad litem, criminal conflict
15 and civil regional counsel, and private court-appointed counsel
16 paid by the state, and to the authorized staff acting on behalf
17 of each, access to and a copy of any public record, if the
18 requesting party is entitled by law to view the exempt or
19 confidential record, as maintained by and in the custody of the
20 clerk of the circuit court as provided in general law and the
21 Florida Rules of Judicial Administration. The clerk of the
22 circuit court may provide the requested public record in an
23 electronic format in lieu of a paper format when capable of
24 being accessed by the requesting entity.

25
26 Charges

27
28 (29) Upon receipt of a Declaration of Domestic Partnership,
29 for preparing and administering of oath, and filing and
30 providing a certified copy the domestic partnership,\$30.00.

31 Section 2. Subsection (3) of section 382.009, Florida
32 Statutes, is amended to read:

33 382.009 Recognition of brain death under certain
34 circumstances.—

35 (3) The next of kin of the patient and domestic partner
36 shall be notified as soon as practicable of the procedures to
37 determine death under this section. The medical records shall
38 reflect such notice; if such notice has not been given, the
39 medical records shall reflect the attempts to identify and
40 notify the next of kin.

41 Section 3. Paragraph (c) of subsection (5) of section



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42 394.459, Florida Statutes, is amended to read:

43 394.459 Rights of patients.—

44 (5) COMMUNICATION, ABUSE REPORTING, AND VISITS.—

45 (c) Each facility must permit immediate access to any
46 patient, subject to the patient's right to deny or withdraw
47 consent at any time, by the patient's family members, including
48 the patient's domestic partner, guardian, guardian advocate,
49 representative, Florida statewide or local advocacy council, or
50 attorney, unless such access would be detrimental to the
51 patient. If a patient's right to communicate or to receive
52 visitors is restricted by the facility, written notice of such
53 restriction and the reasons for the restriction shall be served
54 on the patient, the patient's attorney, and the patient's
55 guardian, guardian advocate, or representative; and such
56 restriction shall be recorded on the patient's clinical record
57 with the reasons therefor. The restriction of a patient's right
58 to communicate or to receive visitors shall be reviewed at least
59 every 7 days. The right to communicate or receive visitors shall
60 not be restricted as a means of punishment. Nothing in this
61 paragraph shall be construed to limit the provisions of
62 paragraph (d).

63 Section 4. Paragraphs (c) and (e) of subsection (1) of
64 section 400.022, Florida Statutes, are amended to read:

65 400.022 Residents' rights.—

66 (1) All licensees of nursing home facilities shall adopt
67 and make public a statement of the rights and responsibilities
68 of the residents of such facilities and shall treat such
69 residents in accordance with the provisions of that statement.
70 The statement shall assure each resident the following:



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71 (c) Any entity or individual that provides health, social,
72 legal, or other services to a resident has the right to have
73 reasonable access to the resident. The resident has the right to
74 deny or withdraw consent to access at any time by any entity or
75 individual. Notwithstanding the visiting policy of the facility,
76 the following individuals must be permitted immediate access to
77 the resident:

78 1. Any representative of the federal or state government,
79 including, but not limited to, representatives of the Department
80 of Children and Family Services, the Department of Health, the
81 Agency for Health Care Administration, the Office of the
82 Attorney General, and the Department of Elderly Affairs; any law
83 enforcement officer; members of the state or local ombudsman
84 council; and the resident's individual physician.

85 2. Subject to the resident's right to deny or withdraw
86 consent, immediate family, including the resident's domestic
87 partner, or other relatives of the resident.

88
89 The facility must allow representatives of the State Long-Term
90 Care Ombudsman Council to examine a resident's clinical records
91 with the permission of the resident or the resident's legal
92 representative and consistent with state law.

93 (e) The right to organize and participate in resident
94 groups in the facility and the right to have the resident's
95 family, including the resident's domestic partner, meet in the
96 facility with the families of other residents.

97 Section 5. Section 406.50, Florida Statutes, is amended to
98 read:

99 406.50 Unclaimed dead bodies or human remains; disposition,



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100 procedure.—All public officers, agents, or employees of every
101 county, city, village, town, or municipality and every person in
102 charge of any prison, morgue, hospital, funeral parlor, or
103 mortuary and all other persons coming into possession, charge,
104 or control of any dead human body or remains which are unclaimed
105 or which are required to be buried or cremated at public expense
106 are hereby required to notify, immediately, the anatomical
107 board, whenever any such body, bodies, or remains come into its
108 possession, charge, or control. Notification of the anatomical
109 board is not required if the death was caused by crushing
110 injury, the deceased had a contagious disease, an autopsy was
111 required to determine cause of death, the body was in a state of
112 severe decomposition, or a family member, including a domestic
113 partner, objects to use of the body for medical education and
114 research.

115 (1) The person or entity in charge or control of the dead
116 body or human remains shall make a reasonable effort to
117 determine:

118 (a) The identity of the deceased person and shall further
119 make a reasonable effort to contact any relatives, including a
120 domestic partner, of such deceased person.

121 (b) Whether or not the deceased person is entitled to
122 burial in a national cemetery as a veteran of the armed forces
123 and, if so, shall make arrangements for such burial services in
124 accordance with the provisions of 38 C.F.R. For purposes of this
125 subsection, "a reasonable effort" includes contacting the county
126 veterans service office or regional office of the United States
127 Department of Veterans Affairs.

128 (2) Such dead human bodies as described in this chapter



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129 shall be delivered to the anatomical board as soon as possible
130 after death.

131 (3) Nothing herein shall affect the right of a medical
132 examiner to hold such dead body or remains for the purpose of
133 investigating the cause of death, nor shall this chapter affect
134 the right of any court of competent jurisdiction to enter an
135 order affecting the disposition of such body or remains.

136 (4) In the event more than one legally authorized person
137 claims a body for interment, the requests shall be prioritized
138 in accordance with s. 732.103.

139
140 For purposes of this chapter, the term "anatomical board" means
141 the anatomical board of this state located at the University of
142 Florida Health Science Center, and the term "unclaimed" means a
143 dead body or human remains that is not claimed by a legally
144 authorized person, as defined in s. 497.005, for interment at
145 that person's expense.

146 Section 6. Paragraph (g) of subsection (2) of section
147 408.051, Florida Statutes, is amended to read:

148 408.051 Florida Electronic Health Records Exchange Act.—

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

150 (g) "Patient representative" means a parent of a minor
151 patient, a court-appointed guardian for the patient, a health
152 care surrogate, or a person holding a power of attorney or
153 notarized consent appropriately executed by the patient granting
154 permission to a health care facility or health care provider to
155 disclose the patient's health care information to that person.
156 In the case of a deceased patient, the term also means the
157 personal representative of the estate of the deceased patient;



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158 the deceased patient's surviving spouse, surviving domestic
159 partner, surviving parent, or surviving adult child; the parent
160 or guardian of a surviving minor child of the deceased patient;
161 the attorney for the patient's surviving spouse, domestic
162 partner, parent, or adult child; or the attorney for the parent
163 or guardian of a surviving minor child.

164 Section 7. Paragraph (g) of subsection (1) of section
165 429.28, Florida Statutes, is amended to read:

166 429.28 Resident bill of rights.—

167 (1) No resident of a facility shall be deprived of any
168 civil or legal rights, benefits, or privileges guaranteed by
169 law, the Constitution of the State of Florida, or the
170 Constitution of the United States as a resident of a facility.
171 Every resident of a facility shall have the right to:

172 (g) Share a room with his or her spouse or domestic partner
173 if both are residents of the facility.

174 Section 8. Paragraph (g) of subsection (1) of section
175 429.85, Florida Statutes, is amended to read:

176 429.85 Residents' bill of rights.—

177 (1) A resident of an adult family-care home may not be
178 deprived of any civil or legal rights, benefits, or privileges
179 guaranteed by law, the State Constitution, or the Constitution
180 of the United States solely by reason of status as a resident of
181 the home. Each resident has the right to:

182 (g) Share a room with the resident's spouse or domestic
183 partner if both are residents of the home.

184 Section 9. Paragraph (b) of subsection (5) of section
185 446.50, Florida Statutes, is amended to read:

186 446.50 Displaced homemakers; multiservice programs; report



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187 to the Legislature; Displaced Homemaker Trust Fund created.—

188 (5) DISPLACED HOME MAKER TRUST FUND.—

189 (b) The trust fund shall receive funds generated from an
190 additional fee on marriage license applications and dissolution
191 of marriage filings as specified in ss. 741.01(3), 741.507, and
192 28.101, respectively, and may receive funds from any other
193 public or private source.

194 Section 10. Subsection (39) of section 497.005, Florida
195 Statutes, is amended to read:

196 497.005 Definitions.—As used in this chapter, the term:

197 (39) “Legally authorized person” means, in the priority
198 listed:

199 (a) The decedent, when written inter vivos authorizations
200 and directions are provided by the decedent;

201 (b) The person designated by the decedent as authorized to
202 direct disposition pursuant to Pub. L. No. 109-163, s. 564, as
203 listed on the decedent’s United States Department of Defense
204 Record of Emergency Data, DD Form 93, or its successor form, if
205 the decedent died while serving military service as described in
206 10 U.S.C. s. 1481(a)(1)-(8) in any branch of the United States
207 Armed Forces, United States Reserve Forces, or National Guard;

208 (c) The surviving spouse or domestic partner, unless the
209 spouse or domestic partner has been arrested for committing
210 against the deceased an act of domestic violence as defined in
211 s. 741.28 that resulted in or contributed to the death of the
212 deceased;

213 (d) A son or daughter who is 18 years of age or older;

214 (e) A parent;

215 (f) A brother or sister who is 18 years of age or older;



- 216 (g) A grandchild who is 18 years of age or older;
- 217 (h) A grandparent; or
- 218 (i) Any person in the next degree of kinship.

219

220 In addition, the term may include, if no family member exists or
221 is available, the guardian of the dead person at the time of
222 death; the personal representative of the deceased; the attorney
223 in fact of the dead person at the time of death; the health
224 surrogate of the dead person at the time of death; a public
225 health officer; the medical examiner, county commission, or
226 administrator acting under part II of chapter 406 or other
227 public administrator; a representative of a nursing home or
228 other health care institution in charge of final disposition; or
229 a friend or other person not listed in this subsection who is
230 willing to assume the responsibility as the legally authorized
231 person. Where there is a person in any priority class listed in
232 this subsection, the funeral establishment shall rely upon the
233 authorization of any one legally authorized person of that class
234 if that person represents that she or he is not aware of any
235 objection to the cremation of the deceased's human remains by
236 others in the same class of the person making the representation
237 or of any person in a higher priority class.

238 Section 11. Paragraph (e) of subsection (8) of section
239 497.152, Florida Statutes, is amended to read:

240 497.152 Disciplinary grounds.—This section sets forth
241 conduct that is prohibited and that shall constitute grounds for
242 denial of any application, imposition of discipline, or other
243 enforcement action against the licensee or other person
244 committing such conduct. For purposes of this section, the



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245 requirements of this chapter include the requirements of rules
246 adopted under authority of this chapter. No subsection heading
247 in this section shall be interpreted as limiting the
248 applicability of any paragraph within the subsection.

249 (8) TRANSPORT, CUSTODY, TREATMENT, OR DISINTERMENT OF HUMAN
250 REMAINS.—

251 (e) Failing to obtain written authorization from the
252 family, including the domestic partner, or next of kin of the
253 deceased prior to entombment, interment, disinterment,
254 disentombment, or disinurnment of the remains of any human
255 being.

256 Section 12. Subsection (2) of section 741.01, Florida
257 Statutes, is amended to read:

258 741.01 County court judge or clerk of the circuit court to
259 issue marriage license; fee.—

260 (2) The fee charged for each marriage license issued in the
261 state shall be increased by the sum of \$25. This fee shall be
262 collected upon receipt of the application for the issuance of a
263 marriage license and remitted by the clerk to the Department of
264 Revenue for deposit in the Domestic Violence Trust Fund. The
265 Executive Office of the Governor shall establish a Domestic
266 Violence Trust Fund for the purpose of collecting and disbursing
267 funds generated from the increase in the marriage license fee
268 and the Declaration of Domestic Partnership fee collected
269 pursuant to s. 741.507. Such funds which are generated shall be
270 directed to the Department of Children and Family Services for
271 the specific purpose of funding domestic violence centers, and
272 the funds shall be appropriated in a "grants-in-aid" category to
273 the Department of Children and Family Services for the purpose



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274 of funding domestic violence centers. From the proceeds of the
275 surcharge deposited into the Domestic Violence Trust Fund as
276 required under s. 938.08, the Executive Office of the Governor
277 may spend up to \$500,000 each year for the purpose of
278 administering a statewide public-awareness campaign regarding
279 domestic violence.

280 Section 13. Section 741.501, Florida Statutes, is created
281 to read:

282 741.501 Legislative findings.—The Legislature finds that:

283 (1) There are a significant number of individuals in this
284 state who live together in important and personally,
285 emotionally, and economically committed relationships who are
286 not married under state law. These familial relationships are
287 often referred to as domestic partnerships. The 2010 census
288 indicates that more than 12 percent of Americans identified
289 themselves as living in a domestic partnership.

290 (2) The state has a strong interest in promoting stable and
291 lasting families and believes that all familial relationships,
292 including domestic partnerships, should be provided with
293 important legal protections.

294 (3) The status of marriage in this state is limited by Art.
295 I of the State Constitution to the union of one man and one
296 woman and the Legislature does not seek to alter the definition
297 of marriage in any way. The Legislature also finds, however,
298 that recognition of domestic partnerships can provide an
299 alternative mechanism for extending certain important rights and
300 responsibilities to individuals who choose to form long-term,
301 mutually supportive relationships. Such recognition will provide
302 support to these familial relationships without affecting the



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303 definition of marriage, without creating or recognizing a legal
304 relationship that is the substantial equivalent of marriage, and
305 without affecting restrictions contained in federal law. This
306 law does not alter, affect, or contravene any municipal, county,
307 state, or federal law that defines marriage, nor shall it be
308 interpreted as recognizing or treating a domestic partnership as
309 a marriage.

310 (4) Because of the material and other support that domestic
311 partnerships provide to their participants, these relationships
312 should be formally recognized and made uniform by law.

313 Recognition of these relationships will also promote employee
314 recruitment, employee retention, and employee loyalty for
315 employers within this state; and will promote economic
316 development by attracting companies to this state which value
317 diversity and protections for their employees. Therefore, the
318 Legislature declares that it is the policy of this state to
319 establish and define the rights and responsibilities of domestic
320 partners.

321 Section 14. Section 741.502, Florida Statutes, is created
322 to read:

323 741.502 Definitions.—As used in ss. 741.501-741.510, the
324 term:

325 (1) "Correctional facility" means any penal, correctional,
326 or detention facility operated by the state, one or more
327 counties, a municipality, or a private corporation.

328 (2) "Domestic partner" means a person who enters into a
329 domestic partnership.

330 (3) "Domestic partnership" means a civil contract that
331 meets the requirements of s. 741.505.



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332 (4) "Health care facility" means a facility licensed under
333 chapter 395, chapter 400, or chapter 429 or defined in s.
334 394.455.

335 (5) "Mutual residence" means a residence that is shared,
336 without the necessity that the legal right to possess the
337 property be in the name of both residents and regardless of
338 whether either resident has another dwelling.

339 Section 15. Section 741.503, Florida Statutes, is created
340 to read:

341 741.503 Forms.—The Department of Health shall prepare and
342 adopt the following forms:

343 (1) Declaration of Domestic Partnership.

344 (2) Certificate of Domestic Partnership.

345 (3) Notice of Termination of Domestic Partnership.

346 (4) Certificate of Termination of Domestic Partnership.

347 Section 16. Section 741.504, Florida Statutes, is created
348 to read:

349 741.504 Domestic partnership requirements.—

350 (1) A domestic partnership may be formed by filing a
351 Declaration of Domestic Partnership form with a clerk of the
352 circuit court in any county. The declaration must include:

353 (a) A statement attesting that each party is 18 years of
354 age or older. The clerk may accept any reasonable proof of an
355 individual's age, but the clerk must accept a driver license or
356 passport.

357 (b) A statement attesting that at least one of the parties
358 is a resident of this state.

359 (c) A statement attesting that both parties share a mutual
360 residence.



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361 (d) A statement attesting that formation of a domestic
362 partnership is not prohibited under s. 741.505.

363 (e) A mailing address for each party.

364 (f) The notarized signature of each party, along with a
365 declaration that the representations made on the form are true
366 and correct and contain no material omissions of fact to the
367 best knowledge and belief of each party.

368 (2) A person who intentionally provides materially false
369 information on a Declaration of Domestic Partnership form
370 commits a misdemeanor of the first degree, punishable as
371 provided in s. 775.082 or s. 775.083.

372 (3) If the Declaration of Domestic Partnership satisfies
373 the requirements of this section, the clerk of the circuit court
374 shall:

375 (a) Record the Declaration of Domestic Partnership in the
376 official records.

377 (b) Issue a Certificate of Domestic Partnership to the
378 partners in person or at the mailing address provided.

379 Section 17. Section 741.505, Florida Statutes, is created
380 to read:

381 741.505 Prohibitions to forming a domestic partnership.—A
382 domestic partnership is prohibited if:

383 (1) Either party is married to a different person, unless
384 the marriage has been legally terminated.

385 (2) Either party is a party to a domestic partnership with
386 a different domestic partner, unless the domestic partnership
387 has been legally terminated.

388 (3) The parties are related by lineal consanguinity or are
389 siblings, or if one party is the niece or nephew of the other



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390 party.

391 (4) Either party is incapable of making the civil contract
392 or of consenting to the contract for want of legal age or
393 sufficient understanding.

394 (5) Consent to formation of the domestic partnership by
395 either party is obtained by force, fraud, or duress.

396 Section 18. Section 741.506, Florida Statutes, is created
397 to read:

398 741.506 Domestic partnership; rights; enforcement.—

399 (1) A health care facility shall provide a domestic partner
400 with the same right of visitation it provides a spouse.

401 (2) A correctional institution shall grant a domestic
402 partner the same visitation privileges it grants a spouse.

403 (3) Any public or private entity that provides notice to a
404 spouse or relative in the event of an emergency shall provide
405 notice to a domestic partner.

406 (4) Domestic partners have the same right to jointly own
407 property by tenancy by the entirety, and all legal attributes
408 thereof, as is afforded to spouses.

409 (5) In the absence of a written designation of a healthcare
410 surrogate, a domestic partner has the same right to serve as
411 proxy, as provided in chapter 765, as a spouse.

412 (6) A decedent's domestic partner has the authority to act
413 as "patient's representative" and to direct the disposition of
414 the decedent's body as provided in chapters 382, 406, 408, 497,
415 765, and 872.

416 (7) A violation of this section may be enforced by private
417 cause of action filed in any court of competent jurisdiction for
418 declaratory relief, injunctive relief, or both. The prevailing



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419 party is entitled to recover attorney fees.

420 Section 19. Section 741.507, Florida Statutes, is created
421 to read:

422 741.507 Fees.—

423 (1) Upon receipt of a Declaration of Domestic Partnership,
424 the clerk of the circuit court shall collect and receive:

425 (a) A fee of \$30 as provided in s. 28.24(29).

426 (b) A fee of \$2 for receiving the Declaration of Domestic
427 Partnership.

428 (c) A fee of \$25 to be remitted to the Department of
429 Revenue for deposit into the Domestic Violence Trust Fund.

430 (d) A fee of \$25 to be remitted to the Department of
431 Revenue for monthly deposit into the General Revenue Fund.

432 (e) A fee of \$7.50 to be remitted to the Department of
433 Revenue for deposit into the Displaced Homemaker Trust Fund
434 created in s. 446.50.

435 (2) An applicant for a Certificate of Domestic Partnership
436 who cannot pay the fees required under subsection (1) in a lump
437 sum may make payment in not more than three installments over a
438 period of 90 days. The clerk shall accept installment payments
439 upon receipt of an affidavit that the applicant cannot pay the
440 fees in a lump-sum payment. Upon receipt of the third or final
441 installment payment, the Declaration of Domestic Partnership
442 shall be deemed filed, and the clerk shall issue the Certificate
443 of Domestic Partnership and distribute the fees as provided in
444 subsection (1). If the fees are paid in installments, the clerk
445 shall retain \$1 from the fee imposed pursuant to paragraph
446 (1)(b) as a processing fee.

447 (3) Upon receipt of a Notice of Termination of Domestic



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448 Partnership, the clerk of the circuit court shall collect and
449 receive a fee of \$10.

450 Section 20. Section 741.508, Florida Statutes, is created
451 to read:

452 741.508 Proof of domestic partnership if certificate is not
453 available.—

454 (1) If the Certificate of Domestic Partnership is not
455 available, the domestic partnership may be proved by an
456 affidavit before any officer authorized to administer oaths
457 which is made by two competent witnesses who were present and
458 saw the Declaration of Domestic Partnership executed.

459 (2) The clerk of the circuit court of the county in which
460 the Declaration of Domestic Partnership originally was executed
461 shall file and record the affidavit and shall issue a new
462 certificate, which has the same force and effect as the
463 original.

464 (3) For purposes of this section, a Certificate of Domestic
465 Partnership is not available if:

466 (a) A Declaration of Domestic Partnership was executed in
467 accordance with s. 741.504 but was not recorded;

468 (b) The certificate is lost; or

469 (c) The certificate cannot be obtained by reason of death
470 or other cause.

471 Section 21. Section 741.509, Florida Statutes, is created
472 to read:

473 741.509 Termination of partnership.—

474 (1) A party to a domestic partnership may terminate the
475 partnership by filing a Notice of Termination of Domestic
476 Partnership with the clerk of the circuit court and by paying



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477 the filing fee established under s. 741.507. The notice must be
478 signed by at least one of the parties and notarized. If the
479 notice is not signed by both parties, the party who seeks
480 termination must also file with the clerk an affidavit stating
481 that:

482 (a) Notice has been served on the other party in the manner
483 prescribed for the service of summons in a civil action; or

484 (b) The party who seeks termination has not been able to
485 find the other party after reasonable effort and that notice has
486 been made pursuant to s. 50.011 by publication in a newspaper of
487 general distribution in the county where the domestic partners
488 were last domiciled.

489 (2) The domestic partnership is terminated effective 90
490 days after the date of filing the notice of termination and
491 payment of the filing fee.

492 (3) Upon receipt of a signed, notarized notice of
493 termination, affidavit, if required, and filing fee, the clerk
494 of the circuit court shall file the notice of termination and
495 issue a Certificate of Termination of Domestic Partnership to
496 each party in person or at the mailing address provided on the
497 notice.

498 (4) A domestic partnership is automatically terminated if,
499 subsequent to the registration of the domestic partnership:

500 (a) Either party or both parties enter into a marriage that
501 is recognized as valid in this state, either with each other or
502 with another person; or

503 (b) One party dies, except that the death of a domestic
504 partner does not extinguish the surviving domestic partner's
505 rights with respect to the medical record of, or information



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506 relating to, the decedent and with respect to the disposition of
507 the decedent's body and the decedent's funeral arrangements.

508 (5) If a domestic partnership is automatically terminated,
509 at least one party must file a notice of termination with the
510 clerk of the circuit court within 30 days of the event causing
511 the automatic termination.

512 Section 22. Section 741.510, Florida Statutes, is created
513 to read:

514 741.510 Preemption.—This act does not preempt the authority
515 of a county or municipality to enact a domestic partnership
516 ordinance that is not in conflict with this act.

517 Section 23. Section 765.105, Florida Statutes, is amended
518 to read:

519 765.105 Review of surrogate or proxy's decision.—The
520 patient's family, including the patient's domestic partner, the
521 health care facility, or the attending physician, or any other
522 interested person who may reasonably be expected to be directly
523 affected by the surrogate or proxy's decision concerning any
524 health care decision may seek expedited judicial intervention
525 pursuant to rule 5.900 of the Florida Probate Rules, if that
526 person believes:

527 (1) The surrogate or proxy's decision is not in accord with
528 the patient's known desires or the provisions of this chapter;

529 (2) The advance directive is ambiguous, or the patient has
530 changed his or her mind after execution of the advance
531 directive;

532 (3) The surrogate or proxy was improperly designated or
533 appointed, or the designation of the surrogate is no longer
534 effective or has been revoked;



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535 (4) The surrogate or proxy has failed to discharge duties,
536 or incapacity or illness renders the surrogate or proxy
537 incapable of discharging duties;

538 (5) The surrogate or proxy has abused powers; or

539 (6) The patient has sufficient capacity to make his or her
540 own health care decisions.

541 Section 24. Subsection (1) of section 765.401, Florida
542 Statutes, is amended to read:

543 765.401 The proxy.—

544 (1) If an incapacitated or developmentally disabled patient
545 has not executed an advance directive, or designated a surrogate
546 to execute an advance directive, or the designated or alternate
547 surrogate is no longer available to make health care decisions,
548 health care decisions may be made for the patient by any of the
549 following individuals, in the following order of priority, if no
550 individual in a prior class is reasonably available, willing, or
551 competent to act:

552 (a) The judicially appointed guardian of the patient or the
553 guardian advocate of the person having a developmental
554 disability as defined in s. 393.063, who has been authorized to
555 consent to medical treatment, if such guardian has previously
556 been appointed; however, this paragraph shall not be construed
557 to require such appointment before a treatment decision can be
558 made under this subsection;

559 (b) The patient's spouse or domestic partner;

560 (c) An adult child of the patient, or if the patient has
561 more than one adult child, a majority of the adult children who
562 are reasonably available for consultation;

563 (d) A parent of the patient;



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564 (e) The adult sibling of the patient or, if the patient has
565 more than one sibling, a majority of the adult siblings who are
566 reasonably available for consultation;

567 (f) An adult relative of the patient who has exhibited
568 special care and concern for the patient and who has maintained
569 regular contact with the patient and who is familiar with the
570 patient's activities, health, and religious or moral beliefs; ~~or~~

571 (g) A close friend of the patient; or-

572 (h) A clinical social worker licensed pursuant to chapter
573 491, or who is a graduate of a court-approved guardianship
574 program. Such a proxy must be selected by the provider's
575 bioethics committee and must not be employed by the provider. If
576 the provider does not have a bioethics committee, then such a
577 proxy may be chosen through an arrangement with the bioethics
578 committee of another provider. The proxy will be notified that,
579 upon request, the provider shall make available a second
580 physician, not involved in the patient's care to assist the
581 proxy in evaluating treatment. Decisions to withhold or withdraw
582 life-prolonging procedures will be reviewed by the facility's
583 bioethics committee. Documentation of efforts to locate proxies
584 from prior classes must be recorded in the patient record.

585 Section 25. Subsections (1) and (3) of section 765.512,
586 Florida Statutes, are amended to read:

587 765.512 Persons who may make an anatomical gift.-

588 (1) Any person who may make a will may make an anatomical
589 gift of his or her body.

590 (a) If the decedent makes an anatomical gift by one of the
591 methods listed in s. 765.514(1), and in the absence of actual
592 notice of contrary indications by the decedent, the document or



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593 entry in the donor registry is legally sufficient evidence of
594 the decedent's informed consent to donate an anatomical gift.

595 (b) An anatomical gift made by a qualified donor and not
596 revoked by the donor, as provided in s. 765.516, is irrevocable
597 after the donor's death. A family member, including a domestic
598 partner, guardian, representative ad litem, or health care
599 surrogate may not modify, deny, or prevent a donor's wish or
600 intent to make an anatomical gift after the donor's death.

601 (3) If the decedent has not made an anatomical gift or
602 designated a health surrogate, a member of one of the classes of
603 persons listed below, in the order of priority listed and in the
604 absence of actual notice of contrary indications by the decedent
605 or actual notice of opposition by a member of a prior class, may
606 give all or any part of the decedent's body for any purpose
607 specified in s. 765.513:

608 (a) The spouse or domestic partner of the decedent;

609 (b) An adult son or daughter of the decedent;

610 (c) Either parent of the decedent;

611 (d) An adult brother or sister of the decedent;

612 (e) An adult grandchild of the decedent;

613 (f) A grandparent of the decedent;

614 (g) A close personal friend, as defined in s. 765.101;

615 (h) A guardian of the person of the decedent at the time of
616 his or her death; or

617 (i) A representative ad litem appointed by a court of
618 competent jurisdiction upon a petition heard ex parte filed by
619 any person, who shall ascertain that no person of higher
620 priority exists who objects to the gift of all or any part of
621 the decedent's body and that no evidence exists of the



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622 decedent's having made a communication expressing a desire that
623 his or her body or body parts not be donated upon death.

624
625 Those of higher priority who are reasonably available must be
626 contacted and made aware of the proposed gift and a reasonable
627 search must be conducted which shows that there would have been
628 no objection to the gift by the decedent.

629 Section 26. Subsection (1) of section 765.517, Florida
630 Statutes, is amended to read:

631 765.517 Rights and duties at death.—

632 (1) The donee, pursuant to s. 765.515(2), may accept or
633 reject an anatomical gift. If the donee accepts a gift to be
634 used for research or education purposes, the donee may authorize
635 embalming and the use of the body in funeral services, subject
636 to the terms of the gift. If the gift is of a part of the body,
637 the donee shall cause the part to be removed without unnecessary
638 mutilation upon the death of the donor and before or after
639 embalming. After removal of the body part, custody of the
640 remainder of the body vests in the surviving spouse, domestic
641 partner, next of kin, or other persons under obligation to
642 dispose of the body.

643 Section 27. Subsection (2) of section 872.04, Florida
644 Statutes, is amended to read:

645 872.04 Autopsies; consent required, exception.—

646 (2) Unless otherwise authorized by statute, no autopsy
647 shall be performed without the written consent by the health
648 care surrogate, as provided in s. 765.202, if one has been
649 designated. If a health care surrogate has not been designated,
650 then written consent may be provided by the spouse, domestic



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651 partner, nearest relative, or, if no such next of kin can be
652 found, the person who has assumed custody of the body for
653 purposes of burial. When two or more persons assume custody of
654 the body for such purposes, then the consent of any one of them
655 shall be sufficient to authorize the autopsy.

656 Section 28. This act shall take effect July 1, 2013.

657

658 ===== T I T L E A M E N D M E N T =====

659 And the title is amended as follows:

660 Delete everything before the enacting clause
661 and insert:

662 A bill to be entitled
663 An act relating to domestic partners; amending s.
664 28.24, F.S.; authorizing the clerk of the circuit
665 court to collect a filing fee for domestic partner
666 registrations; amending s. 382.009, F.S.; requiring
667 notification of a patient's domestic partner in the
668 event of the brain death of the patient; amending s.
669 394.459, F.S.; providing access to a mental health
670 patient by his or her domestic partner; amending s.
671 400.022, F.S.; requiring that nursing homes allow a
672 domestic partner access to his or her partner who is a
673 resident and requiring that the domestic partner be
674 allowed to meet with the families of other residents;
675 amending s. 406.50, F.S.; requiring notification of a
676 decedent's domestic partner before the decedent's body
677 can be used for medical education or research;
678 amending s. 408.051, F.S.; adding "domestic partner"
679 to the definition of the term "patient"



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680 representative"; amending s. 429.28, F.S.; requiring
681 that assisted living facilities allow domestic
682 partners to share a room; amending s. 429.85, F.S.;
683 requiring that adult family-care homes allow domestic
684 partners to share a room; amending s. 446.50, F.S.;
685 providing a cross-reference; amending s. 497.005,
686 F.S.; adding domestic partner to the individuals
687 regarded as legally authorized persons for purposes of
688 making funeral arrangements of a deceased; amending s.
689 497.152, F.S.; prohibiting the disposition or
690 disinterment of a decedent's body without written
691 authorization from his or her surviving domestic
692 partner; amending s. 741.01, F.S.; directing the
693 Executive Office of the Governor to establish a
694 Domestic Violence Trust Fund for the purpose of
695 collecting and disbursing funds generated from the
696 Declaration of Domestic Partnership fee; creating s.
697 741.501, F.S.; providing legislative findings;
698 creating s. 741.502, F.S.; providing definitions;
699 creating s. 741.503, F.S.; requiring the Department of
700 Health to adopt forms; creating s. 741.504, F.S.;
701 establishing requirements for domestic partnership;
702 providing criminal penalties for providing false
703 information; creating s. 741.505, F.S.; specifying
704 prohibitions to forming domestic partnerships under
705 certain circumstances; creating s. 741.506, F.S.;
706 identifying rights afforded to domestic partners;
707 providing for enforcement of such rights; creating s.
708 741.507, F.S.; providing fees for establishing and



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709 terminating a domestic partnership; creating s.
710 741.508, F.S.; providing methods to prove the
711 existence of a domestic partnership under certain
712 circumstances; creating s. 741.509, F.S.; providing
713 for termination of a domestic partnership; creating s.
714 741.510, F.S.; providing that the act does not preempt
715 the authority of a county or municipality to enact a
716 domestic partnership ordinance unless in conflict with
717 the act; amending s. 765.105, F.S.; including a
718 patient's domestic partner as one of several specified
719 persons who may seek judicial intervention to question
720 the patient's health care decision; amending s.
721 765.401, F.S.; adding a domestic partner to the list
722 of individuals who may serve as a health care proxy;
723 amending s. 765.512, F.S.; providing that a domestic
724 partner may make an anatomical gift on behalf of the
725 decedent; amending s. 765.517; adding a domestic
726 partner to the list of people who may receive
727 remainder of body parts after an anatomical gift;
728 amending s. 872.04, F.S.; requiring written
729 authorization of a domestic partner to perform an
730 autopsy on his or her deceased partner if no health
731 care surrogate has been designated; providing an
732 effective date.

By Senator Sobel

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1 A bill to be entitled
 2 An act relating to families first; amending ss. 28.101
 3 and 28.24, F.S.; setting forth fees and costs to be
 4 applied when petitioning for a dissolution of a
 5 domestic partnership or registering a domestic
 6 partnership, respectively; amending s. 97.1031, F.S.;
 7 providing notice to the supervisor of elections
 8 concerning a change of name due to participation in a
 9 domestic partnership; amending s. 382.002, F.S.;
 10 defining the term "dissolution of a domestic
 11 partnership" for purposes of vital records; including
 12 domestic partnerships and dissolution of domestic
 13 partnership as vital records in this state; conforming
 14 cross-references; amending s. 382.003, F.S.; requiring
 15 the Department of Health to examine all certificates
 16 of domestic partnership forms and dissolution of
 17 domestic partnership reports sent from the courts;
 18 amending s. 382.0085, F.S.; conforming a cross-
 19 reference; amending s. 382.021, F.S.; requiring the
 20 clerk of the circuit court to transmit all original
 21 declarations of domestic partnership to the Department
 22 of Health by a specified date each month; amending s.
 23 382.022, F.S.; requiring the clerk of the circuit
 24 court to collect a fee after registering a domestic
 25 partnership; amending s. 382.023, F.S.; requiring the
 26 clerk of the circuit court to collect a fee upon
 27 filing a final judgment for a dissolution of domestic
 28 partnership; amending s. 382.025, F.S.; authorizing
 29 the Department of Health to issue a certified copy of

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30 certain vital records to a domestic partner; amending
 31 s. 382.0255, F.S.; providing that the Department of
 32 Health is entitled to a specified fee for the issuance
 33 of a commemorative certificate of domestic
 34 partnership; amending s. 446.50, F.S.; requiring that
 35 certain fees relating to declarations of domestic
 36 partnership and dissolution of domestic partnership
 37 filings be deposited in the Displaced Homemaker Trust
 38 Fund; amending s. 741.28, F.S.; redefining the term
 39 "family or household member" in the context of
 40 domestic violence to include a domestic partnership;
 41 creating s. 741.501, F.S.; providing legislative
 42 findings; creating s. 741.502, F.S.; defining terms;
 43 creating s. 741.503, F.S.; requiring the Department of
 44 Health to create and distribute the Declaration of
 45 Domestic Partnership and Certificate of Registered
 46 Domestic Partnership forms to each clerk of the
 47 circuit court; requiring the department and each clerk
 48 of the circuit court to make the Declaration of
 49 Domestic Partnership form available to the public;
 50 creating s. 741.504, F.S.; providing that the circuit
 51 court has jurisdiction over domestic partnership
 52 proceedings; requiring the clerk of the circuit court
 53 to maintain a domestic partnership registry; providing
 54 that the registry is a public record; creating s.
 55 741.505, F.S.; requiring two individuals who wish to
 56 become partners in a domestic partnership to complete
 57 and file a Declaration of Domestic Partnership form
 58 with the clerk of the circuit court; specifying the

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59 required contents of the completed form; providing
 60 that each partner who signs the form consents to the
 61 jurisdiction of the circuit court for certain
 62 purposes; providing that if a person files an
 63 intentionally and materially false form, he or she
 64 commits a misdemeanor of the first degree; providing
 65 criminal penalties; requiring the clerk of the circuit
 66 court to register the Declaration of Domestic
 67 Partnership in a domestic partnership registry and
 68 issue a Certificate of Registered Domestic
 69 Partnership; creating s. 741.506, F.S.; authorizing
 70 the domestic partners to retain surnames; creating s.
 71 741.507, F.S.; providing that any privilege or
 72 responsibility granted or imposed by statute,
 73 administrative or court rule, policy, common law, or
 74 any other law to an individual because the individual
 75 is or was related to another by marriage, or is a
 76 child of either of the spouses, is granted on
 77 equivalent terms to domestic partners or individuals
 78 similarly related to domestic partners; providing that
 79 the act does not require or permit the extension of
 80 any benefit under a retirement, deferred compensation,
 81 or other employee benefit plan, if the plan
 82 administrator reasonably concludes that the extension
 83 of benefits to partners would conflict with a
 84 condition for tax qualification of the plan, or a
 85 condition for other favorable tax treatment of the
 86 plan, under the Internal Revenue Code; creating s.
 87 741.508, F.S.; specifying prohibited or void domestic

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88 partnerships; creating s. 741.509, F.S.; requiring
 89 that the clerk of the circuit court collect certain
 90 fees for receiving a Declaration of Domestic
 91 Partnership; authorizing the clerk of the circuit
 92 court to accept installment payments from individuals
 93 who are unable to pay the fees in a lump sum; creating
 94 s. 741.510, F.S.; providing methods to prove the
 95 existence of a registered Declaration Domestic
 96 Partnership when the certificate document has been
 97 lost or is otherwise unavailable; creating s. 741.511,
 98 F.S.; providing for termination of a domestic
 99 partnership; providing for notice; providing for the
 100 effective date of the termination; providing for
 101 registration of the termination; requiring records of
 102 certain terminations to be maintained; providing for
 103 automatic termination of partnership if either party
 104 enters into a valid marriage; providing for a
 105 reasonable fee for termination; reenacting ss.
 106 921.0024(1)(b) and 943.171(2)(b), F.S., relating to
 107 the worksheet form for the Criminal Punishment Code
 108 and the basic skills training for domestic violence
 109 cases, respectively, to incorporate the amendments
 110 made to s. 741.28, F.S., in references thereto;
 111 providing an effective date.

112
 113 Be It Enacted by the Legislature of the State of Florida:

114
 115 Section 1. Section 28.101, Florida Statutes, is amended to
 116 read:

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117 28.101 Petitions and records of dissolution of marriage and
118 domestic partnership; additional charges.-

119 (1) When a party petitions for a dissolution of marriage or
120 dissolution of domestic partnership, in addition to the filing
121 charges in s. 28.241, the clerk shall collect and receive:

122 (a) A charge of \$5. On a monthly basis, the clerk shall
123 transfer the moneys collected pursuant to this paragraph to the
124 Department of Revenue for deposit in the Child Welfare Training
125 Trust Fund created in s. 402.40.

126 (b) A charge of \$5. On a monthly basis, the clerk shall
127 transfer the moneys collected pursuant to this paragraph to the
128 Department of Revenue for deposit in the Displaced Homemaker
129 Trust Fund created in s. 446.50. If a petitioner does not have
130 sufficient funds ~~with which~~ to pay this fee and signs an
131 affidavit so stating, all or a portion of the fee shall be
132 waived subject to a subsequent order of the court relative to
133 the payment of the fee.

134 (c) A charge of \$55. On a monthly basis, the clerk shall
135 transfer the moneys collected pursuant to this paragraph to the
136 Department of Revenue for deposit in the Domestic Violence Trust
137 Fund. Such funds ~~which are generated~~ shall be directed to the
138 Department of Children and Family Services for the specific
139 purpose of funding domestic violence centers.

140 (d) A charge of \$32.50. On a monthly basis, the clerk shall
141 transfer the moneys collected pursuant to this paragraph as
142 follows:

143 1. An amount of \$7.50 to the Department of Revenue for
144 deposit in the Displaced Homemaker Trust Fund.

145 2. An amount of \$25 to the Department of Revenue for

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146 deposit in the General Revenue Fund.

147 (2) Upon receipt of a final judgment of dissolution of
148 marriage or dissolution of domestic partnership for filing, and
149 in addition to the filing charges in s. 28.241, the clerk may
150 collect and receive a service charge of up to \$10.50 pursuant to
151 s. 382.023 for ~~the~~ recording and reporting ~~the of such~~ final
152 judgment ~~of dissolution of marriage~~ to the Department of Health.

153 Section 2. Subsection (23) of section 28.24, Florida
154 Statutes, is amended to read:

155 28.24 Service charges by clerk of the circuit court.-The
156 clerk of the circuit court shall charge for services rendered by
157 the clerk's office in recording documents and instruments and in
158 performing the duties enumerated in amounts not to exceed those
159 specified in this section. Notwithstanding any other provision
160 of this section, the clerk of the circuit court shall provide
161 without charge to the state attorney, public defender, guardian
162 ad litem, public guardian, attorney ad litem, criminal conflict
163 and civil regional counsel, and private court-appointed counsel
164 paid by the state, and to the authorized staff acting on behalf
165 of each, access to and a copy of any public record, if the
166 requesting party is entitled by law to view the exempt or
167 confidential record, as maintained by and in the custody of the
168 clerk of the circuit court as provided in general law and the
169 Florida Rules of Judicial Administration. The clerk of the
170 circuit court may provide the requested public record in an
171 electronic format in lieu of a paper format when capable of
172 being accessed by the requesting entity.

173

174

Charges

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175
176 (23) Upon receipt of an application for a marriage license
177 or a declaration of domestic partnership, for preparing and
178 administering of oath; issuing, sealing, and recording of the
179 marriage license or registering the domestic partnership; and
180 providing a certified copy.....30.00

181 Section 3. Subsection (2) of section 97.1031, Florida
182 Statutes, is amended to read:

183 97.1031 Notice of change of residence, change of name, or
184 change of party affiliation.-

185 (2) When an elector seeks to change party affiliation, the
186 elector shall notify his or her supervisor of elections or other
187 voter registration official by using a signed written notice
188 that contains the elector's date of birth or voter registration
189 number. When an elector changes his or her name by marriage,
190 domestic partnership, or other legal process, the elector shall
191 notify his or her supervisor of elections or other voter
192 registration official by using a signed written notice that
193 contains the elector's date of birth or voter's registration
194 number.

195 Section 4. Present subsections (6) through (17) of section
196 382.002, Florida Statutes, are renumbered as subsections (7)
197 through (18), respectively, a new subsection (6) is added to
198 that section, and present subsections (8), (9), and (16) of that
199 section are amended, to read:

200 382.002 Definitions.-As used in this chapter, the term:

201 (6) "Dissolution of domestic partnership" includes an
202 annulment of domestic partnership.

203 (7)(6) "Dissolution of marriage" includes an annulment of

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204 marriage.

205 (8)(7) "Fetal death" means death prior to the complete
206 expulsion or extraction of a product of human conception from
207 its mother if the 20th week of gestation has been reached and
208 the death is indicated by the fact that after such expulsion or
209 extraction the fetus does not breathe or show any other evidence
210 of life such as beating of the heart, pulsation of the umbilical
211 cord, or definite movement of voluntary muscles.

212 (9)(8) "Final disposition" means the burial, interment,
213 cremation, removal from the state, or other authorized
214 disposition of a dead body or a fetus as described in subsection
215 (8)(7). In the case of cremation, dispersion of ashes or
216 cremation residue is considered to occur after final
217 disposition; the cremation itself is considered final
218 disposition.

219 (10)(9) "Funeral director" means a licensed funeral
220 director or direct disposer licensed pursuant to chapter 497 or
221 other person who first assumes custody of or effects the final
222 disposition of a dead body or a fetus as described in subsection
223 (8)(7).

224 (17)(16) "Vital records" or "records" means certificates or
225 reports of birth, death, fetal death, marriage, domestic
226 partnership, dissolution of marriage or domestic partnership,
227 name change filed pursuant to s. 68.07, and data related
228 thereto.

229 Section 5. Subsection (7) of section 382.003, Florida
230 Statutes, is amended to read:

231 382.003 Powers and duties of the department.-The department
232 shall:

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233 (7) Approve all forms used in registering, recording,
 234 certifying, and preserving vital records, or in otherwise
 235 carrying out the purposes of this chapter, and ~~no~~ other forms
 236 ~~may not shall~~ be used other than those approved by the
 237 department. The department is responsible for the careful
 238 examination of the certificates received monthly from the local
 239 registrars and marriage certificates, certificates of domestic
 240 partnership, and dissolution of marriage and domestic
 241 partnership reports received from the circuit and county courts.
 242 A certificate that is complete and satisfactory shall be
 243 accepted and given a state file number and considered a state-
 244 filed record. If any such certificates are incomplete or
 245 unsatisfactory, the department shall require further information
 246 to be supplied as ~~may be~~ necessary to make the record complete
 247 and satisfactory. All physicians, midwives, informants, or
 248 funeral directors, and all other persons having knowledge of the
 249 facts, are required to supply, upon a form approved by the
 250 department or upon the original certificate, such information as
 251 they may possess regarding any vital record.

252 Section 6. Subsection (9) of section 382.0085, Florida
 253 Statutes, is amended to read:

254 382.0085 Stillbirth registration.—

255 (9) This section or s. 382.002(16) ~~s. 382.002(15)~~ may not
 256 be used to establish, bring, or support a civil cause of action
 257 seeking damages against any person or entity for bodily injury,
 258 personal injury, or wrongful death for a stillbirth.

259 Section 7. Section 382.021, Florida Statutes, is amended to
 260 read:

261 382.021 Department to receive marriage licenses and

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262 declarations of domestic partnership.—On or before the 5th day
 263 of each month, the county court judge or clerk of the circuit
 264 court shall transmit to the department all original marriage
 265 licenses, with endorsements, and all declarations of domestic
 266 partnership received during the preceding calendar month, ~~to the~~
 267 ~~department~~. Any marriage licenses or declarations of domestic
 268 partnership issued and not returned, ~~or any marriage licenses~~
 269 returned but not recorded, shall be reported by the issuing
 270 county court judge or clerk of the circuit court to the
 271 department at the time of transmitting the recorded licenses or
 272 declarations on the forms to be prescribed and furnished by the
 273 department. If during any month no marriage licenses or
 274 declarations of domestic partnership are issued or returned, the
 275 county court judge or clerk of the circuit court shall report
 276 such fact to the department upon forms prescribed and furnished
 277 by the department.

278 Section 8. Section 382.022, Florida Statutes, is amended to
 279 read:

280 382.022 Marriage application; registration of domestic
 281 partnership; fees.—Upon the receipt of each application for the
 282 issuance of a marriage license or registering a domestic
 283 partnership, the county court judge or clerk of the circuit
 284 court shall, pursuant to s. 741.02, collect and receive a fee of
 285 \$4 which shall be remitted to the Department of Revenue for
 286 deposit to the Department of Health to defray part of the cost
 287 of maintaining marriage and domestic partnership records.

288 Section 9. Section 382.023, Florida Statutes, is amended to
 289 read:

290 382.023 Department to receive dissolution-of-marriage and

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 291 ~~dissolution-of-domestic-partnership~~ records; fees. ~~Clerks of the~~
 292 ~~circuit courts shall collect for their services~~ At the time of
 293 the filing of a final judgment of dissolution of marriage or
 294 dissolution of domestic partnership, the clerk of the circuit
 295 court shall collect a fee of up to \$10.50, of which 43 percent
 296 shall be retained by the clerk ~~of the circuit court~~ as a part of
 297 the cost in the cause in which the judgment is granted. The
 298 remaining 57 percent shall be remitted to the Department of
 299 Revenue for deposit to the Department of Health to defray part
 300 of the cost of maintaining the dissolution-of-marriage and
 301 dissolution-of-domestic-partnership records. A record of each
 302 and every judgment of dissolution of marriage and dissolution of
 303 domestic partnership granted by the court during the preceding
 304 calendar month, giving names of parties and such other data as
 305 required by forms prescribed by the department, shall be
 306 transmitted to the department, on or before the 10th day of each
 307 month, along with an accounting of the funds remitted to the
 308 Department of Revenue pursuant to this section.

Section 10. Paragraph (a) of subsection (1) and paragraphs
 (a) and (c) of subsection (2) of section 382.025, Florida
 Statutes, are amended to read:

382.025 Certified copies of vital records; confidentiality;
 research.—

(1) BIRTH RECORDS.—Except for birth records over 100 years
 old which are not under seal pursuant to court order, all birth
 records of this state shall be confidential and are exempt from
 the provisions of s. 119.07(1).

(a) Certified copies of the original birth certificate or a
 new or amended certificate, or affidavits thereof, are

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 320 confidential and exempt from the provisions of s. 119.07(1) and,
 321 upon receipt of a request and payment of the fee prescribed in
 322 s. 382.0255, shall be issued only as authorized by the
 323 department and in the form prescribed by the department, and
 324 only:
 325 1. To the registrant, if the registrant is of legal age, is
 326 a certified homeless youth, or is a minor who has had the
 327 disabilities of nonage removed under s. 743.01 or s. 743.015;
 328 2. To the registrant's parent or guardian or other legal
 329 representative;
 330 3. Upon receipt of the registrant's death certificate, to
 331 the registrant's spouse or domestic partner or to the
 332 registrant's child, grandchild, or sibling, if of legal age, or
 333 to the legal representative of any of such persons;
 334 4. To any person if the birth record is over 100 years old
 335 and not under seal pursuant to court order;
 336 5. To a law enforcement agency for official purposes;
 337 6. To any agency of the state or the United States for
 338 official purposes upon approval of the department; or
 339 7. Upon order of any court of competent jurisdiction.
 340 (2) OTHER RECORDS.—
 341 (a) The department shall authorize the issuance of a
 342 certified copy of all or part of any marriage, domestic
 343 partnership, dissolution of marriage or domestic partnership, or
 344 death or fetal death certificate, excluding that portion which
 345 is confidential and exempt from ~~the provisions of~~ s. 119.07(1)
 346 as provided under s. 382.008, to any person requesting it upon
 347 receipt of a request and payment of the fee prescribed by this
 348 section. A certification of the death or fetal death certificate

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349 which includes the confidential portions shall be issued only:

350 1. To the registrant's spouse, domestic partner, or parent,
351 or to the registrant's child, grandchild, or sibling, if of
352 legal age, or to any person who provides a will that has been
353 executed pursuant to s. 732.502, insurance policy, or other
354 document that demonstrates his or her interest in the estate of
355 the registrant, or to any person who provides documentation that
356 he or she is acting on behalf of any of them;

357 2. To any agency of the state or local government or the
358 United States for official purposes upon approval of the
359 department; or

360 3. Upon order of any court of competent jurisdiction.

361 (c) The department shall issue, upon request and upon
362 payment of an additional fee prescribed by this section, a
363 commemorative marriage license or certificate of domestic
364 partnership representing that the marriage or domestic
365 partnership of the persons named thereon is recorded in the
366 office of the registrar. The certificate issued under this
367 paragraph must ~~shall~~ be in a form consistent with the need to
368 protect the integrity of vital records but must ~~shall~~ be
369 suitable for display. It may bear the seal of the state printed
370 thereon and may be signed by the Governor.

371 Section 11. Paragraph (i) of subsection (1) of section
372 382.0255, Florida Statutes, is amended to read:

373 382.0255 Fees.—

374 (1) The department is entitled to fees, as follows:

375 (i) Twenty-five dollars for a commemorative certificate of
376 birth, ~~or~~ marriage, or domestic partnership. Fees collected
377 pursuant to this paragraph in excess of expenses shall be used

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378 ~~available for use~~ by the Regional Perinatal Intensive Care
379 Centers (RPICC) Program to prevent child abuse and neglect.
380 Funds derived from the issuance of commemorative marriage
381 certificates shall be used ~~available for use~~ by the Improved
382 Pregnancy Outcome Program.

383 Section 12. Paragraph (b) of subsection (5) of section
384 446.50, Florida Statutes, is amended to read:

385 446.50 Displaced homemakers; multiservice programs; report
386 to the Legislature; Displaced Homemaker Trust Fund created.—

387 (5) DISPLACED HOME MAKER TRUST FUND.—

388 (b) The trust fund shall receive funds generated from an
389 additional fee on marriage license applications, declarations of
390 domestic partnerships, and dissolution of marriage and domestic
391 partnership filings as specified in ss. 741.01(3), 741.509, and
392 28.101, respectively, and may receive funds from any other
393 public or private source.

394 Section 13. Subsection (3) of section 741.28, Florida
395 Statutes, is amended to read:

396 741.28 Domestic violence; definitions.—As used in ss.
397 741.28-741.31:

398 (3) "Family or household member" means spouses~~;~~ former
399 spouses~~;~~ persons related by blood, ~~or~~ marriage, or domestic
400 partnership; persons who are presently residing together as if a
401 family or who have resided together in the past as if a family~~;~~
402 and persons who are parents of a child in common regardless of
403 whether they have been married. With the exception of persons
404 who have a child in common, the family or household members must
405 be currently residing or have in the past resided together in
406 the same single dwelling unit.

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407 Section 14. Section 741.501, Florida Statutes, is created
408 to read:

409 741.501 Legislative findings.—The Legislature finds that:

410 (1) There are a significant number of individuals in this
411 state who live together in important, personal, emotional, and
412 economically committed relationships. Together, these
413 individuals live, serve, and participate in the community, and
414 often rear children and care for family members.

415 (2) These familial relationships, often referred to as
416 domestic partnerships, assist the state by providing a private
417 network of support for the financial, physical, and emotional
418 health of their participants.

419 (3) The state has a strong interest in promoting stable and
420 lasting families, and believes that all families should be
421 provided with the opportunity to obtain necessary legal
422 protections and status and the ability to achieve their fullest
423 potential.

424 (4) While some public and private institutions recognize
425 domestic partnerships for limited purposes such as health
426 benefits, hospital visitation, and medical decisionmaking for an
427 incapacitated family member, many do not. Historically, legal
428 recognition of marriage by the state is the primary and, in a
429 number of instances, the exclusive source of numerous rights,
430 benefits, and responsibilities available to families under the
431 laws of this state.

432 (5) The status of marriage in this state is limited by Art.
433 I of the State Constitution to the union of one man and one
434 woman and the Legislature does not seek to alter the definition
435 of marriage in any way. The Legislature also finds, however,

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436 that recognition of domestic partnerships can provide an
437 alternative mechanism for extending certain important rights and
438 responsibilities to individuals who choose to form long-term,
439 mutually supportive relationships. Such recognition will provide
440 support to these familial relationships without affecting the
441 definition of marriage, without creating or recognizing a legal
442 relationship that is the substantial equivalent of marriage, and
443 without affecting restrictions contained in federal law.

444 (6) The decision to offer or seek a ceremony or blessing
445 over the domestic partnership should be left to the dictates of
446 each religious faith and to the preferences of the persons
447 entering into the partnership. Sections 741.501-741.511 do not
448 require performance of any solemnization ceremony to enter into
449 a binding domestic partnership agreement and do not interfere
450 with the right of each religious faith to choose freely to whom
451 to grant the religious status, sacrament, or blessing of
452 marriage under the rules and practices of that faith.

453 (7) Because of the material and other support that these
454 familial relationships provide to their participants, these
455 relationships should be formally recognized and made uniform by
456 law. Therefore, the Legislature declares that it is the policy
457 of this state to establish and define the rights and
458 responsibilities of domestic partners.

459 Section 15. Section 741.502, Florida Statutes, is created
460 to read:

461 741.502 Definitions.—As used in ss. 741.501-741.511, the
462 term:

463 (1) "Department" means the Department of Health.

464 (2) "Domestic partnership" means a civil contract entered

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465 into between two individuals who are 18 years of age or older
 466 and otherwise capable, of which at least one of whom is a
 467 resident of this state.

468 (3) "Partner" means an individual joined in a domestic
 469 partnership.

470 Section 16. Section 741.503, Florida Statutes, is created
 471 to read:

472 741.503 Forms.-

473 (1) Pursuant to s. 382.003(7), the department shall prepare
 474 forms entitled:

475 (a) "Declaration of Domestic Partnership" which meet the
 476 requirements of s. 741.505.

477 (b) "Certificate of Registered Domestic Partnership."

478 (2) The department shall distribute the Declaration of
 479 Domestic Partnership and Certificate of Registered Domestic
 480 Partnership forms to each clerk of the circuit court. The
 481 department and each clerk shall make the Declaration of Domestic
 482 Partnership form available to the public.

483 Section 17. Section 741.504, Florida Statutes, is created
 484 to read:

485 741.504 Court jurisdiction and duties; registry.-

486 (1) The circuit court has jurisdiction over any proceeding
 487 relating to the domestic partners' rights and obligations.

488 (2) Each clerk of the circuit court shall maintain a
 489 registry of all domestic partnerships entered into in that
 490 circuit and a record of all certificates of domestic partnership
 491 issued which includes the names of the partners and the date of
 492 issuance.

493 (3) Notwithstanding s. 382.025 or any other law, the

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494 registry of domestic partnerships maintained by a clerk of the
 495 circuit court is a public record and subject to full disclosure.

496 Section 18. Section 741.505, Florida Statutes, is created
 497 to read:

498 741.505 Domestic partnership requirements.-

499 (1) Two individuals wishing to become partners in a
 500 domestic partnership recognized by this state must complete and
 501 file a Declaration of Domestic Partnership form with a clerk of
 502 the circuit court. The declaration must include:

503 (a) A statement attesting that each individual is 18 years
 504 of age or older and is otherwise capable of entering into a
 505 domestic partnership. The clerk may accept any reasonable proof
 506 of an individual's age which is satisfactory to the clerk. The
 507 clerk may also require proof of age by affidavit of some
 508 individual other than the parties seeking to file the form if
 509 the clerk deems it necessary.

510 (b) A statement attesting that at least one of the
 511 individuals is a resident of this state.

512 (c) Each individual's mailing address.

513 (d) A statement attesting that each individual consents to
 514 the jurisdiction of the circuit courts of this state for any
 515 proceeding relating to the partners' rights and obligations,
 516 even if one or both partners cease to reside or maintain a
 517 domicile in this state.

518 (e) The notarized signature of each individual, along with
 519 a declaration that the representations made on the form are
 520 true, correct, and contain no material omissions of fact to the
 521 best knowledge and belief of each individual.

522 (2) Notwithstanding s. 61.021, each person signing a

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523 Declaration of Domestic Partnership form consents to the
 524 jurisdiction of the circuit courts of this state for any
 525 proceeding related to the partners' rights and obligations, even
 526 if one or both partners cease to reside or maintain a domicile
 527 in this state.

528 (3) A person who provides intentionally and materially
 529 false information on a Declaration of Domestic Partnership form
 530 with the clerk of court commits a misdemeanor of the first
 531 degree, punishable as provided in s. 775.082 or s. 775.083.

532 (4) If all legal requirements have been satisfied and there
 533 appears to be no impediment to the domestic partnership, the
 534 clerk of the circuit court shall:

535 (a) Return a copy of the registered form to the partners;

536 (b) Register the Declaration of Domestic Partnership in a
 537 domestic partnership registry; and

538 (c) Issue a Certificate of Registered Domestic Partnership
 539 under his or her hand and seal to the partners in person or at
 540 the mailing address provided by the partners.

541 Section 19. Section 741.506, Florida Statutes, is created
 542 to read:

543 741.506 Domestic partnership; name change.—Upon entering
 544 into a domestic partnership, a partner may retain his or her
 545 previous surname, or, if changed, may resume the previous legal
 546 name during the domestic partnership.

547 Section 20. Section 741.507, Florida Statutes, is created
 548 to read:

549 741.507 Domestic partnership; rights and responsibilities;
 550 relationship to federal law.—

551 (1) Any privilege, immunity, right, or benefit granted by

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552 statute, administrative or court rule, policy, common law, or
 553 any other law to an individual because the individual is or was
 554 related to another individual by marriage as an in-law is
 555 granted on equivalent terms, substantive and procedural, to an
 556 individual who is or was in a domestic partnership or who is or
 557 was similarly related as an in-law to an individual
 558 participating in a domestic partnership.

559 (2) Any responsibility imposed by statute, administrative
 560 or court rule, policy, common law, or any other law on an
 561 individual because the individual is or was related to another
 562 individual by marriage as an in-law is imposed on equivalent
 563 terms, substantive and procedural, on an individual who is or
 564 was in a domestic partnership or who is or was similarly related
 565 as an in-law to an individual participating in a domestic
 566 partnership.

567 (3) Any privilege, immunity, right, benefit, or
 568 responsibility granted to or imposed by statute, administrative
 569 or court rule, policy, common law, or any other law on a spouse
 570 with respect to a child of either of the spouses is granted to
 571 or imposed on equivalent terms, substantive and procedural, on
 572 an individual in a domestic partnership with respect to a child
 573 of either of the partners.

574 (4) Any privilege, immunity, right, benefit, or
 575 responsibility granted or imposed by statute, administrative or
 576 court rule, policy, common law, or any other law to or on a
 577 former or surviving spouse with respect to a child of either of
 578 the spouses is granted to or imposed on equivalent terms,
 579 substantive and procedural, on a former or surviving partner
 580 with respect to a child of either of the partners.

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581 (5) For purposes of administering the tax laws of this
 582 state, partners in a domestic partnership, surviving partners of
 583 a domestic partnership, and the children of partners in a
 584 domestic partnership have the same privileges, immunities,
 585 rights, benefits, and responsibilities as are granted to or
 586 imposed on spouses in a marriage, surviving spouses, and their
 587 children.

588 (6) Many of the laws of this state are intertwined with
 589 federal law, and the Legislature recognizes that it does not
 590 have the jurisdiction to control or implement federal laws or
 591 the privileges, immunities, rights, benefits, and
 592 responsibilities related to federal laws.

593 (7) Sections 741.502-741.511 do not require or permit the
 594 extension of any benefit under any retirement, deferred
 595 compensation, or other employee benefit plan, if the plan
 596 administrator reasonably concludes that the extension of
 597 benefits would conflict with a condition for the tax
 598 qualification of the plan, or a condition for other favorable
 599 tax treatment of the plan, under the Internal Revenue Code or
 600 adopted regulations.

601 (8) Sections 741.502-741.511 do not require the extension
 602 of any benefit under any employee benefit plan that is subject
 603 to federal regulation under the Employee Retirement Income
 604 Security Act of 1974.

605 Section 21. Section 741.508, Florida Statutes, is created
 606 to read:

607 741.508 Domestic partnerships prohibited and void.—

608 (1) The following domestic partnerships are prohibited and
 609 void if:

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610 (a) Either party to the domestic partnership currently has
 611 a different partner, or a wife or husband recognized by this
 612 state, living at the time of entering into the domestic
 613 partnership.

614 (b) The parties to the domestic partnership are related by
 615 lineal consanguinity or are siblings, or if one party is the
 616 niece or nephew of the other party.

617 (c) Either party to a domestic partnership is incapable of
 618 making the civil contract or consenting to the contract for want
 619 of legal age or sufficient understanding.

620 (2) If the consent of either party is obtained by force or
 621 fraud, the domestic partnership is void from the time it is so
 622 declared by a judgment of a court having jurisdiction of the
 623 domestic partnership.

624 (3) An individual who has filed a Declaration of Domestic
 625 Partnership form may not file a new Declaration of Domestic
 626 Partnership form or enter a marriage recognized in this state
 627 with someone other than the individual's registered partner
 628 unless a judgment of dissolution or annulment of the most recent
 629 domestic partnership has been entered. This prohibition does not
 630 apply if the previous domestic partnership ended because one of
 631 the partners died.

632 Section 22. Section 741.509, Florida Statutes, is created
 633 to read:

634 741.509 Fees.—

635 (1) The clerk of the circuit court shall collect and
 636 receive a fee of \$2 for receiving a Declaration of Domestic
 637 Partnership form completed in accordance with s. 741.505. In
 638 addition:

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639 (a) A fee of \$25 shall be collected and deposited in the
 640 Domestic Violence Trust Fund for the purposes provided in s.
 641 741.01(2).

642 (b) A fee of \$7.50 shall be collected for deposit in the
 643 Displaced Homemaker Trust Fund created in s. 446.50.

644 (c) A fee of \$25 shall be collected and remitted to the
 645 Department of Revenue for deposit, monthly, into the General
 646 Revenue Fund.

647 (d) A fee of \$4 shall be collected and distributed as
 648 provided in s. 382.022.

649 (2) An applicant for a Certificate of Registered Domestic
 650 Partnership who is unable to pay the fees required under
 651 subsection (1) in a lump sum may make payment in not more than
 652 three installments over a period of 90 days. The clerk shall
 653 accept installment payments upon receipt of an affidavit that
 654 the applicant is unable to pay the fees in a lump-sum payment.
 655 Upon receipt of the third or final installment payment, the
 656 Declaration of Domestic Partnership shall be deemed filed, and
 657 the clerk shall issue the Certificate of Registered Domestic
 658 Partnership and distribute the fees as appropriate. If the fee
 659 is paid in installments, the clerk shall retain \$1 from the
 660 additional fee imposed pursuant to paragraph (1) (c) as a
 661 processing fee.

662 Section 23. Section 741.510, Florida Statutes, is created
 663 to read:

664 741.510 Proof domestic partnership where certificate is not
 665 available.—If a Declaration of Domestic Partnership has been
 666 received in accordance with s. 741.505 and the clerk has not
 667 registered such declaration as required by that section, if a

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668 Certificate of Registered Domestic Partnership has been lost, or
 669 if by reason of death or other cause the certificate cannot be
 670 obtained, the domestic partnership may be proved by affidavit
 671 before any officer authorized to administer oaths made by two
 672 competent witnesses who were present and saw the Declaration of
 673 Domestic Partnership executed under s. 741.505, which affidavit
 674 may be filed and recorded in the office of clerk of the circuit
 675 in which the Declaration of Domestic Partnership was registered,
 676 with the same force and effect as if the proper certificate has
 677 been made, returned, and recorded.

678 Section 24. Section 741.511, Florida Statutes, is created
 679 to read:

680 741.511 Termination of partnership.—

681 (1) (a) A party to a state-registered domestic partnership
 682 may terminate the relationship by filing a notice of termination
 683 of the state-registered domestic partnership with the department
 684 and paying the filing fee established under subsection (5). The
 685 notice must be signed by one or both parties and notarized. If
 686 the notice is not signed by both parties, the party seeking
 687 termination must also file with the department an affidavit
 688 stating either that the other party has been served in writing
 689 in the manner prescribed for the service of summons in a civil
 690 action, that a notice of termination is being filed, or that the
 691 party seeking termination has not been able to find the other
 692 party after reasonable effort and that notice has been made by
 693 publication pursuant to paragraph (b).

694 (b) When the other party cannot be found after reasonable
 695 effort, the party seeking termination may provide notice by
 696 publication as provided in chapter 50 in the county in which the

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697 residence most recently shared by the domestic partners is
698 located. Notice must be published at least once.

699 (2) The state-registered domestic partnership shall be
700 terminated effective 90 days after the date of filing the notice
701 of termination and payment of the filing fee.

702 (3) Upon receipt of a signed, notarized notice of
703 termination, affidavit, if required, and the filing fee, the
704 department shall register the notice of termination and provide
705 a certificate of termination of the state-registered domestic
706 partnership to each party named on the notice. The department
707 shall maintain a record of each notice of termination filed with
708 it and each certificate of termination issued by it. The
709 department shall maintain records of terminations of state-
710 registered domestic partnerships, except for those state-
711 registered domestic partnerships terminated under subsection
712 (4).

713 (4) A state-registered domestic partnership is
714 automatically terminated if, subsequent to the registration of
715 the domestic partnership with the department, either party or
716 both parties enter into a marriage that is recognized as valid
717 in this state, either with each other or with another person.

718 (5) The department shall collect a reasonable fee for
719 filing the declaration set by rule calculated to cover the
720 department's costs, but not to exceed \$50. Fees collected under
721 this section shall be deposited into the department's
722 Administrative Trust Fund.

723 Section 25. For the purpose of incorporating the amendment
724 made by this act to section 741.28, Florida Statutes, in a
725 reference thereto, paragraph (b) of subsection (1) of section

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726 921.0024, Florida Statutes, is reenacted to read:
727 921.0024 Criminal Punishment Code; worksheet computations;
728 scoresheets.-

729 (1)

730 (b) WORKSHEET KEY:

731
732 Legal status points are assessed when any form of legal status
733 existed at the time the offender committed an offense before the
734 court for sentencing. Four (4) sentence points are assessed for
735 an offender's legal status.

736
737 Community sanction violation points are assessed when a
738 community sanction violation is before the court for sentencing.
739 Six (6) sentence points are assessed for each community sanction
740 violation and each successive community sanction violation,
741 unless any of the following apply:

742 1. If the community sanction violation includes a new
743 felony conviction before the sentencing court, twelve (12)
744 community sanction violation points are assessed for the
745 violation, and for each successive community sanction violation
746 involving a new felony conviction.

747 2. If the community sanction violation is committed by a
748 violent felony offender of special concern as defined in s.
749 948.06:

750 a. Twelve (12) community sanction violation points are
751 assessed for the violation and for each successive violation of
752 felony probation or community control where:

753 (I) The violation does not include a new felony conviction;
754 and

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755 (II) The community sanction violation is not based solely
756 on the probationer or offender's failure to pay costs or fines
757 or make restitution payments.

758 b. Twenty-four (24) community sanction violation points are
759 assessed for the violation and for each successive violation of
760 felony probation or community control where the violation
761 includes a new felony conviction.

762

763 Multiple counts of community sanction violations before the
764 sentencing court shall not be a basis for multiplying the
765 assessment of community sanction violation points.

766

767 Prior serious felony points: If the offender has a primary
768 offense or any additional offense ranked in level 8, level 9, or
769 level 10, and one or more prior serious felonies, a single
770 assessment of thirty (30) points shall be added. For purposes of
771 this section, a prior serious felony is an offense in the
772 offender's prior record that is ranked in level 8, level 9, or
773 level 10 under s. 921.0022 or s. 921.0023 and for which the
774 offender is serving a sentence of confinement, supervision, or
775 other sanction or for which the offender's date of release from
776 confinement, supervision, or other sanction, whichever is later,
777 is within 3 years before the date the primary offense or any
778 additional offense was committed.

779

780 Prior capital felony points: If the offender has one or more
781 prior capital felonies in the offender's criminal record, points
782 shall be added to the subtotal sentence points of the offender
783 equal to twice the number of points the offender receives for

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784 the primary offense and any additional offense. A prior capital
785 felony in the offender's criminal record is a previous capital
786 felony offense for which the offender has entered a plea of nolo
787 contendere or guilty or has been found guilty; or a felony in
788 another jurisdiction which is a capital felony in that
789 jurisdiction, or would be a capital felony if the offense were
790 committed in this state.

791

792 Possession of a firearm, semiautomatic firearm, or machine gun:
793 If the offender is convicted of committing or attempting to
794 commit any felony other than those enumerated in s. 775.087(2)
795 while having in his or her possession: a firearm as defined in
796 s. 790.001(6), an additional eighteen (18) sentence points are
797 assessed; or if the offender is convicted of committing or
798 attempting to commit any felony other than those enumerated in
799 s. 775.087(3) while having in his or her possession a
800 semiautomatic firearm as defined in s. 775.087(3) or a machine
801 gun as defined in s. 790.001(9), an additional twenty-five (25)
802 sentence points are assessed.

803

804 Sentencing multipliers:

805

806 Drug trafficking: If the primary offense is drug trafficking
807 under s. 893.135, the subtotal sentence points are multiplied,
808 at the discretion of the court, for a level 7 or level 8
809 offense, by 1.5. The state attorney may move the sentencing
810 court to reduce or suspend the sentence of a person convicted of
811 a level 7 or level 8 offense, if the offender provides
812 substantial assistance as described in s. 893.135(4).

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813
 814 Law enforcement protection: If the primary offense is a
 815 violation of the Law Enforcement Protection Act under s.
 816 775.0823(2), (3), or (4), the subtotal sentence points are
 817 multiplied by 2.5. If the primary offense is a violation of s.
 818 775.0823(5), (6), (7), (8), or (9), the subtotal sentence points
 819 are multiplied by 2.0. If the primary offense is a violation of
 820 s. 784.07(3) or s. 775.0875(1), or of the Law Enforcement
 821 Protection Act under s. 775.0823(10) or (11), the subtotal
 822 sentence points are multiplied by 1.5.
 823
 824 Grand theft of a motor vehicle: If the primary offense is grand
 825 theft of the third degree involving a motor vehicle and in the
 826 offender's prior record, there are three or more grand thefts of
 827 the third degree involving a motor vehicle, the subtotal
 828 sentence points are multiplied by 1.5.
 829
 830 Offense related to a criminal gang: If the offender is convicted
 831 of the primary offense and committed that offense for the
 832 purpose of benefiting, promoting, or furthering the interests of
 833 a criminal gang as prohibited under s. 874.04, the subtotal
 834 sentence points are multiplied by 1.5.
 835
 836 Domestic violence in the presence of a child: If the offender is
 837 convicted of the primary offense and the primary offense is a
 838 crime of domestic violence, as defined in s. 741.28, which was
 839 committed in the presence of a child under 16 years of age who
 840 is a family or household member as defined in s. 741.28(3) with
 841 the victim or perpetrator, the subtotal sentence points are

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842 multiplied by 1.5.
 843 Section 26. For the purpose of incorporating the amendment
 844 made by this act to section 741.28, Florida Statutes, in a
 845 reference thereto, paragraph (b) of subsection (2) of section
 846 943.171, Florida Statutes, is reenacted to read:
 847 943.171 Basic skills training in handling domestic violence
 848 cases.—
 849 (2) As used in this section, the term:
 850 (b) "Household member" has the meaning set forth in s.
 851 741.28(3).
 852 Section 27. This act shall take effect July 1, 2013.
 853

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Review of Florida's Child Support Guidelines, 2011

Dr. Stefan Norrbin, Florida State University

Dr. David Macpherson, Trinity University

Dr. Tom McCaleb, Florida State University

March 12, 2013

Background of Child Support guidelines

- Family Support Act of 1988 mandated that every state adopt a set of child support guidelines.
- Florida adopted an **income shares** framework.
- The income shares framework is implemented using a worksheet that computes the monetary cost of raising a child based on the joint income of both parents. Then the child support payment is determined according to the noncustodial parent's share of income.

Basic Obligation Worksheet

CHILD SUPPORT GUIDELINES WORKSHEET			
	A. FATHER	B. MOTHER	TOTAL
1. Present Net Monthly Income Enter the amount from line 27, Section I of Florida Family Law Rules of Procedure Form 12.902(b) or (c), Financial Affidavit.	1,200	800	2,000
2. Basic Monthly Obligation There is (are) {number} <u>1</u> minor child(ren) common to the parties. Using the total amount from line 1, enter the appropriate amount from the child support guidelines chart.			442
3. Percent of Financial Responsibility Divide the amount on line 1A by the total amount on line 1 to get Father's percentage of financial responsibility. Enter answer on line 3A. Divide the amount on line 1B by the total amount on line 1 to get Mother's percentage of financial responsibility. Enter answer on line 3B.	60 %	40 %	
4. Share of Basic Monthly Obligation Multiply the number on line 2 by the percentage on line 3A to get Father's share of basic obligation. Enter answer on line 4A. Multiply the number on line 2 by the percentage on line 3B to get Mother's share of basic obligation. Enter answer on line 4B.	265.20	176.80	

The cost of raising children comes from the Child Support Guidelines Chart

CHILD SUPPORT GUIDELINES CHART

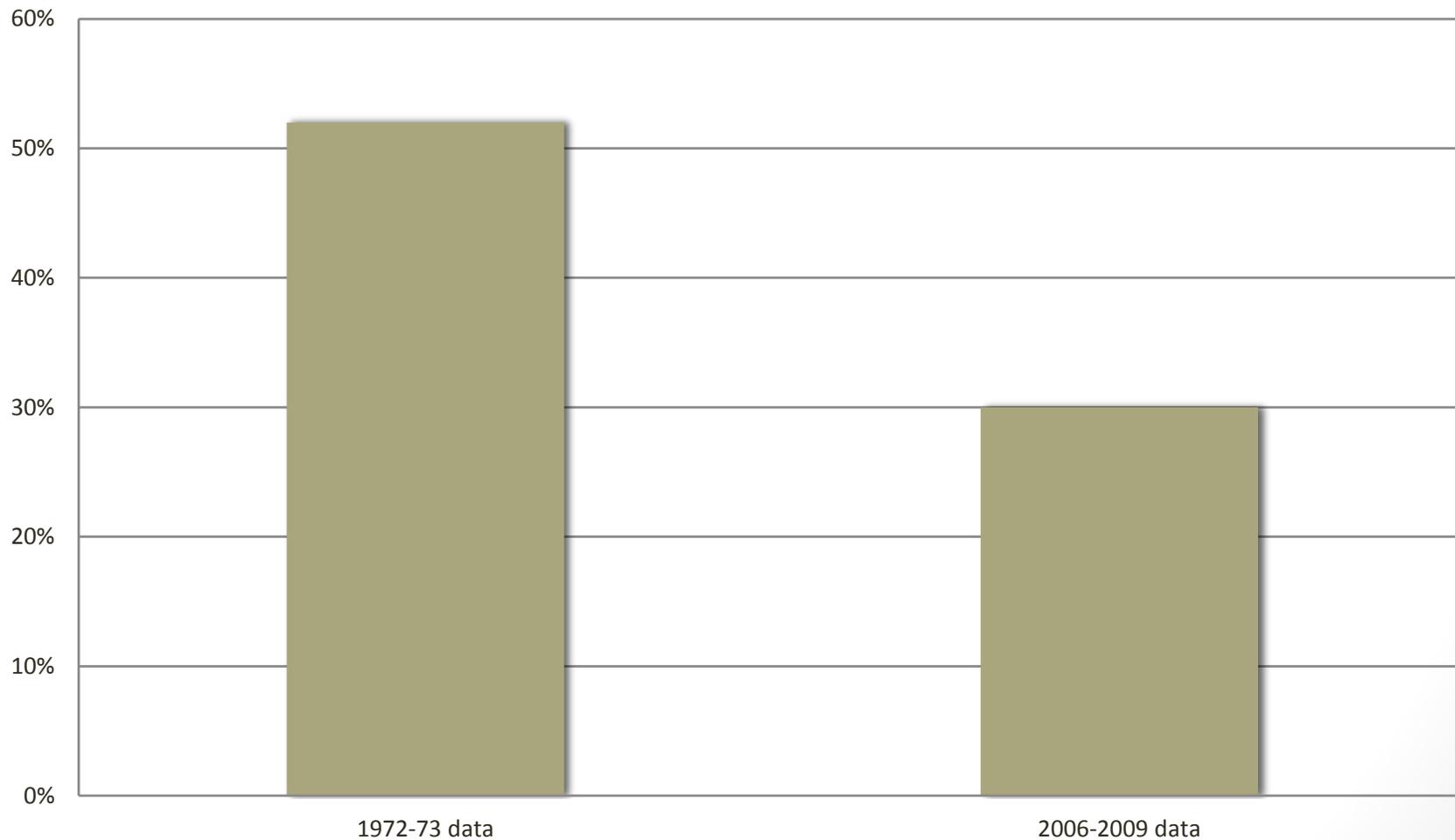
Combined Monthly Available Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
800.00	190	211	213	216	218	220
850.00	202	257	259	262	265	268
900.00	213	302	305	309	312	315
950.00	224	347	351	355	359	363
1000.00	235	365	397	402	406	410
1050.00	246	382	443	448	453	458
1100.00	258	400	489	495	500	505
1150.00	269	417	522	541	547	553
1200.00	280	435	544	588	594	600
1250.00	290	451	565	634	641	648
1300.00	300	467	584	659	688	695
1350.00	310	482	603	681	735	743
1400.00	320	498	623	702	765	790
1450.00	330	513	642	724	789	838
1500.00	340	529	662	746	813	869
1550.00	350	544	681	768	836	895
1600.00	360	560	701	790	860	920
1650.00	370	575	720	812	884	945
1700.00	380	591	740	833	907	971
1750.00	390	606	759	855	931	996
1800.00	400	622	779	877	955	1022
1850.00	410	638	798	900	979	1048
1900.00	421	654	818	923	1004	1074
1950.00	431	670	839	946	1029	1101
2000.00	442	686	859	968	1054	1128

It is difficult to compute the cost of raising a child

- The cost of raising a child is the fraction of the family consumption spent on the child. It is not clear how much of each family's consumption is devoted to a child.
- The Florida guidelines are based on a study by Espenshade (1984). He estimated the cost of children using **CES** data from 1972-73 .
- These guidelines were adopted in Florida in 1988 and have remained the same except for an adjustment for inflation in 1993.
- In 2011 we were asked by the Florida Legislature to examine why updating the guidelines leads to lower costs of children, and to examine how the original estimates were done.

Updating data leads to much lower estimates of the cost of raising children

Share of Consumption for two children

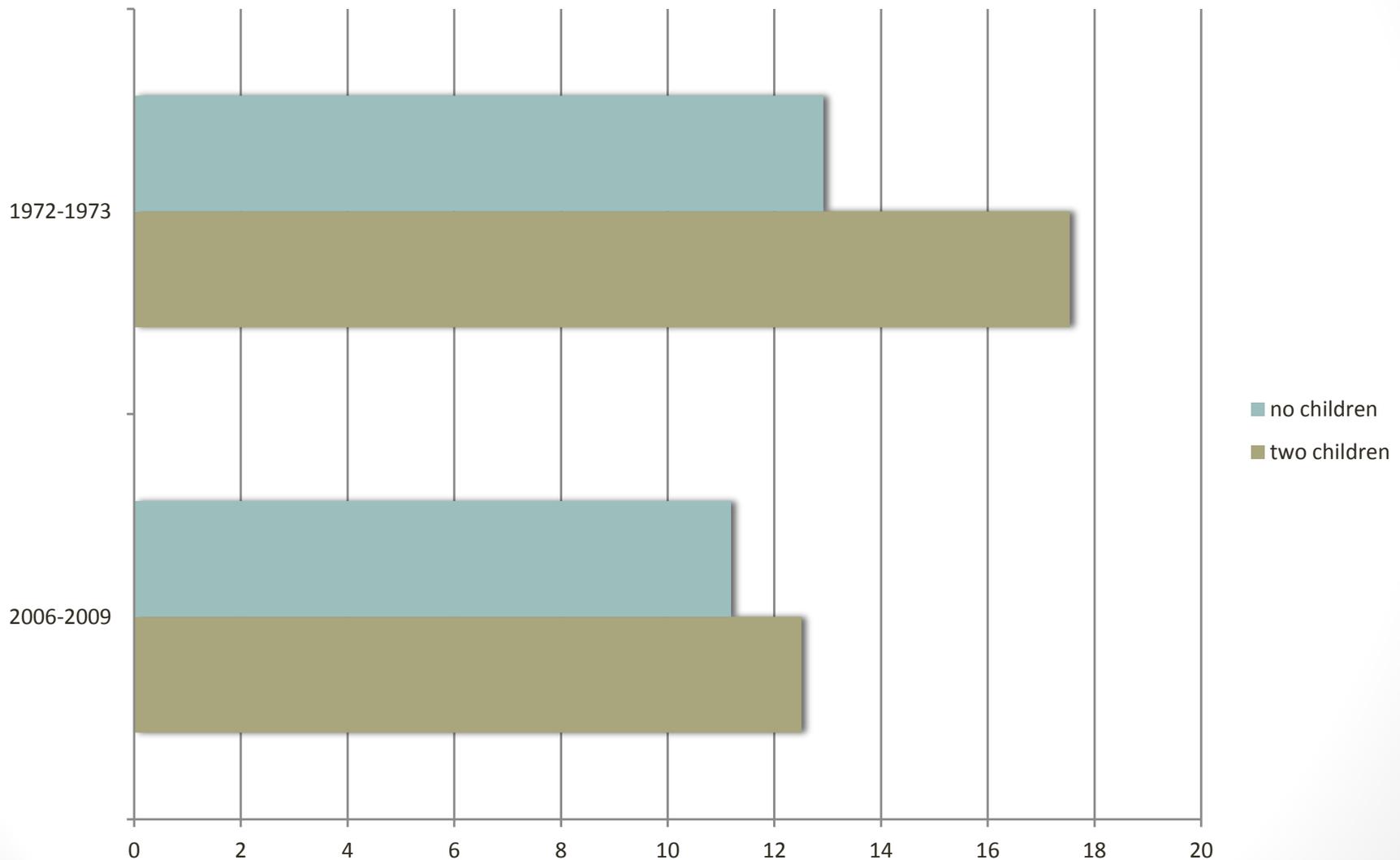


Source: share of consumption estimates using full non-linear model with outliers removed

The Original Florida guidelines

- The original Florida guidelines are based on a book by Thomas Espenshade published in 1984. The model used in the book was based on a 1857 article by a German economist named Ernst Engel. In his article he examined how the food consumption of Belgian workers changed as their income grew.
- Espenshade's model computed the consumption necessary to make a **synthetic** family with children and an identical family without children have the same shares of **food at home** as a fraction of total consumption.
- The original guidelines were created by taking the consumption share reported in the book and converting them to a percentage of net income using **CES** data.

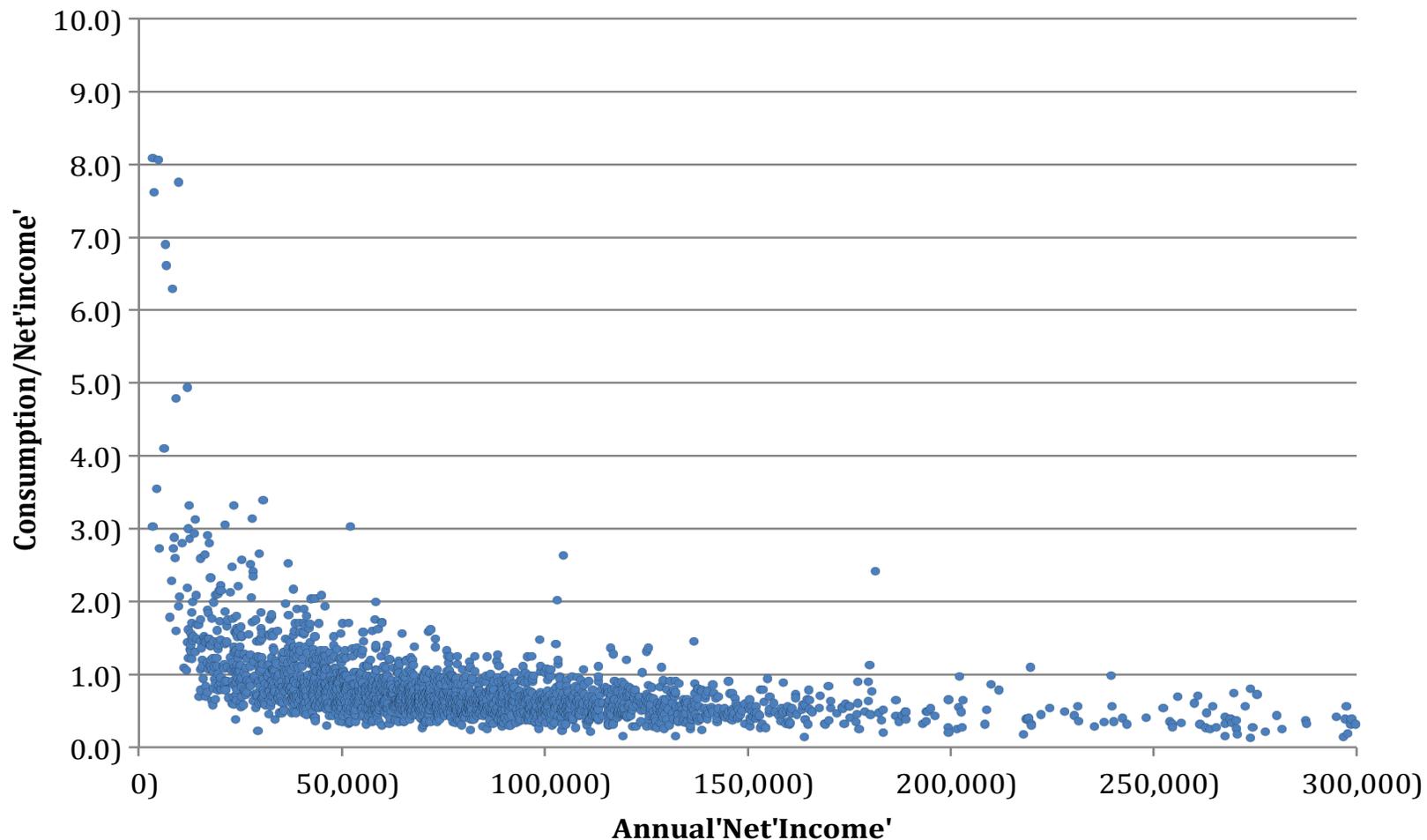
The food at home consumption has decreased more for families with children than for families without children leading to lower estimates for guidelines



Source: Figure 3.1 and 3.2, 2011 report

The conversion from consumption to net income is affected by numerous households consuming more than their income (2006-2009 data)

Figure 6-2: Consumption/Net Income



Concerns with the current guidelines

- Based on 1972-73 data. Data does not reflect current conditions, and upon examination substantial mistakes exist in the 1972-73 data (probably because it was a new survey then).
- Theory based on food consumed at home from an article published in 1857.
- Concern over how the original Espenshade estimates were extrapolated from the consumption share of two children.
- Most economic studies argue that the Engel curve approach *overstates* the true cost of raising children.
- The use of CES data to convert consumption shares to net income shares is a concern.

Additional concerns: Shared parenting adjustment

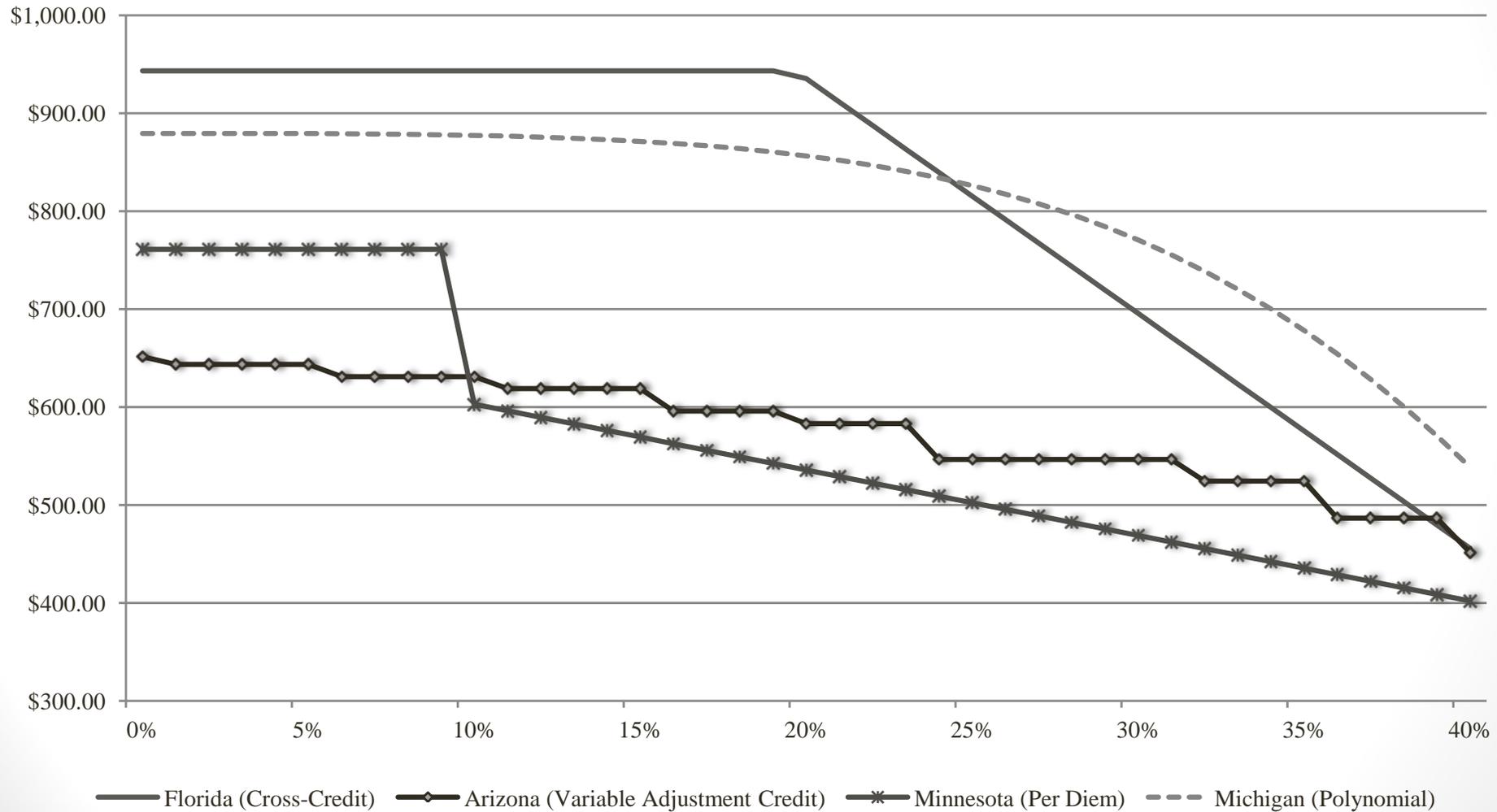
- The Florida worksheet allows for a shared parenting adjustment if the child spends 20% or more time with noncustodial parent. The worksheet has an added section that starts with:

Substantial Time-Sharing (GROSS UP METHOD) If each parent exercises time-sharing at least 20 percent of the overnights in the year (73 overnights in the year), complete Nos. 10 through 21			
	A. FATHER	B. MOTHER	TOTAL
10. Basic Monthly Obligation x 150% [Multiply line 2 by 1.5]			

- The noncustodial parent's child support payment is reduced to offset the additional costs of raising the child in two homes rather than one.
- A concern is the use of a fixed multiplier of 1.5. This implies that the cost of raising a child is assumed to be 50% higher when the 20% visitation threshold is reached, and the costs will be 50% higher no matter how many nights the child spends with the noncustodial parent.

Florida has substantial credit for shared parenting even at low levels of visitation

Figure 4-4: Comparison of Different Approaches to Computing Child Support Credit for Shared Parenting



Additional concerns: Low income provision

A low income provision has been included in the guidelines to allow for the fact that child support payments can push the noncustodial parent below the poverty line. This provision already exists and is already built into the current guidelines.

The effectiveness of the low income provision is unintentionally limited by certain features of the child support guidelines:

- Because Florida uses the income shares approach the parents' *combined* income is compared to the *single-person* poverty guideline. This renders the low income provision useless in practice, as almost all parents have a combined income that exceeds the single-person poverty line.
- the amount of the self-support reserve has not been indexed to the poverty guideline since 1992 and is now substantially out of date. The 1992 poverty line was \$567.50 per month, whereas the 2011 guideline was \$907.50
- the low income provision is applied only to the basic child support obligation and not to the total obligation including childcare and children's health expenses.

Modified worksheet, with low income provision

MONTHLY INCOME				
		CP	NCP	Total
4	Total number of children in this case:			
5	Gross Income			
6	Allowable Deductions			
7	Net Income (L5-L6)	+	=	
8	% Share of Total (Each parent's net income divided by combined income)			100%

MONTHLY FINANCIAL NEED				
9	Basic Need (From Schedule of Basic Child Support Obligations)			
10	Childcare (75%)			
11	Insurance			
12	Total Financial Need (L9 +L10 +L11)			

OBLIGOR PARENTAL OBLIGATION (Completed only for the NCP)				
13	Obligation (L8 x L12)			
14	Credit, Childcare			
15	Credit, Insurance			
16	Net Obligation (L13 – L14 – L15)			

LOW INCOME OBLIGOR PARENT ADJUSTMENT				
17	L7 - \$907 (current year's poverty guidelines)			
18	L17 x 90%			
19	Adjusted Net Obligation (enter the smaller of L16 or L18, but not less than zero)*			

*If line 19 is zero, the obligor parent's child support payment is to be determined at the discretion of the court.

Summary of findings and concerns

- Findings concerning the guidelines:
 - The basis for the model, food at home, has decreased substantially in importance
 - The current Florida guidelines were computed based on Espenshade's original estimates using 1972-73 CES data.
 - Concern over whether the Engel framework dating back to 1857 is the correct framework to use to compute the current cost of children
 - Concern over the use of CES data to convert consumption shares to income shares
- Other findings:
 - The use of a fixed 1.5 shared parenting multiplier creates a substantial shared parenting credit even at small visitation levels
 - The low income provision is not working in practice

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 56

INTRODUCER: Children, Families, and Elder Affairs Committee and Senator Hays

SUBJECT: Infant Death

DATE: March 12, 2013

REVISED: 03/12/13

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Lloyd	Stovall	HP	Favorable
2.	Hendon	Hendon	CF	Fav/CS
3.				
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

CS/SB 56 replaces the concept of Sudden Infant Death Syndrome (SIDS) with Sudden Unexplained Infant Death (SUID). Accordingly, requirements for training first responders and protocols for medical examiners are revised to reflect this change in emphasis. The changes reflect the current practices of medical examiners and coroners in the identification of the SUID classification for infant deaths.

References to the SIDS hotline and local SIDS alliances are deleted. The bill is not expected to have a fiscal impact on the state and has an effective date of July 1, 2013.

This bill substantially amends section 383.3362, Florida Statutes.

II. Present Situation:

Sudden Infant Death Syndrome (SIDS)

Subsection 383.3362(2), F.S., defines SIDS as the “sudden unexpected death of an infant under 1 year of age which remains unexplained after a complete autopsy, death-scene investigation, and

review of case history. The term includes only those deaths for which, currently, there is no known cause or cure.”

Subsection 383.3362(3), F.S., acknowledges that first responders, such as emergency medical technicians, paramedics, firefighters and law enforcement officers, should be trained in how to respond to sudden infant death as the likely first responders to a request for assistance. Basic training programs for certification for certain first responders include instruction on SIDS. The Department of Health (DOH) is responsible for the training curriculum in consultation with the Emergency Medical Services Advisory Council, the Firefighters Employment Standards, and Training Council and the Criminal Justice Standards and Training Commission. This curriculum is adopted by rule¹.

A medical examiner is required to perform an autopsy on any infant under age 1 who is suspected to have died of Sudden Infant Death Syndrome.² Furthermore, the autopsy must be performed within 24 hours after the death or as soon thereafter as is feasible. If the medical examiner’s findings are consistent with SIDS, this condition must be listed as the cause of death on the death certificate.

The Medical Examiners Commission is required to develop a protocol for dealing with suspected SIDS.³ The law requires that all medical examiners follow the protocol and provides the contents and requirements for the protocol.

A medical examiner is not liable for damages for any act or omission done in compliance with s. 383.3362, F.S.

The DOH is responsible for:

- Developing and presenting SIDS training programs for first responders;
- Maintaining a database of statistics on reported SIDS deaths;
- Serving as a liaison and coordinating activities with the Florida SIDS Alliance, including the SIDS hotline;
- Maintaining a library reference list and materials for public disseminations about SIDS;
- Providing professional support to field staff; and
- Coordinating the activities of and promoting a link between the fetal and infant mortality review committees of the local healthy start coalitions, the local SIDS alliance and other related support groups.

Infant Death Statistics

The DOH reports annually on fetal and infant deaths through the Florida Vital Statistics Annual Report.⁴ This report provides the number of fetal deaths per 1,000 live births, the number of

¹ See Department of Health Rule 64F-5.002, Florida Administrative Code *available at* <https://www.flrules.org/gateway/ruleNo.asp?id=64F-5.002> (last visited Jan. 21, 2013).

² See s. 383.3362(4), F.S.

³ *Id.* But see Florida Administrative Code Rule 11G-2.0031 *available at* <https://www.flrules.org/gateway/ruleNo.asp?id=11G-2.0031> (last visited Jan. 21, 2013). Administrative rule repealed effective 5-21-2012 and SIDS autopsy protocol moved to Practice Guidelines.

deaths by race, and compares that data to national figures. In addition, specific information on infant mortality rates, including data on SIDS and SUID deaths by county, is compiled by the DOH and available on-line at FloridaCHARTS.com.⁵

Over the last three years (2009-2011), 2,839 resident neonatal deaths in Florida were recorded. A neonatal death is defined as an infant death occurring within the first 27 days of birth. The overall number of resident neonatal infant deaths for 2011 was 915, which reflects a reduction from the prior year of 14.⁶ The resident neonatal death rate per 1,000 live births for 2011 translates to 4.3 for all births in the state.

The resident infant (less than one year old) death rate for the same rolling three-year period (2009-2011) in Florida was 4,297. The overall number of resident infant deaths for the most recent single year, 2011, was 1,372 which was a reduction from the prior year of 28. Florida’s rate of all infant death’s for 2011 was 6.4 per 1,000 live births.⁷

Infant Mortality Rates – All Causes		
Time Period	Resident Neo-Natal Deaths (Within First 27 Days)	Resident Infant Deaths (Within First Year)
2010	929	1,400
2011	915	1,372

Infant deaths are also reported by specific categories by year and in the same rolling three-year periods for many categories in FloridaCHARTS.com. For the period 2009- 2011, there were 179 SIDS reported deaths in Florida. These deaths were defined as occurring during the infant’s first year of life.⁸ In 2011, there were 46 reported SIDS deaths in the neonatal period with four occurring in the first 27 days of life and the remainder after day 28.⁹

Infant Mortality Rates – from SIDS			
Time Period	Total Infant Deaths	Resident Neo-Natal Deaths (Within First 27 Days)	Resident Infant Deaths (Within First Year)
2010	63	6	57
2011	46	4	42

Role of Medical Examiners

Medical examiners are required to perform an autopsy in accordance with the authority granted under s. 406.11, F.S. Part I of ch. 406 specifically governs the medical examiners who are

⁴ See Florida Vital Statistics Annual Report 2011, available at <http://www.flpublichealth.com/VSBOOK/VSBOOK.aspx> (last visited Jan. 21, 2013).

⁵ See Florida Department of Health, Division of Public Health Statistics & Performance Management, Infant Death Indicators. available at <http://www.floridacharts.com/charts/DataViewer/InfantDeathViewer/InfantDeathViewer.aspx?indNumber=0053> (last visited Jan. 21, 2013).

⁶ *Id.*

⁷ *Id.*

⁸ *Supra*, n. 5

⁹ *Id.*

practicing physicians in pathology appointed by the Governor in each medical examiner district of the state.

Section 406.02, F.S., creates the Medical Examiner Commission within the Florida Department of Law Enforcement. The commission is comprised of nine appointed persons who are charged with adopting rules to implement ch. 406 that ensure minimum and uniform standards of excellence, performance of duties; and maintenance of records so as to provide useful and adequate information to the state in death investigations.

Section 406.11, F.S., mandates the circumstances under which a medical examiner must determine the cause of death and shall perform an examination, investigation and autopsy. Those instances include when any person dies in the state:

- Of criminal violence.
- By accident.
- By suicide.
- *Suddenly, when in apparent good health. (emphasis added)*
- Unattended by a practicing physician or other recognized practitioner.
- In any prison or penal institution.
- In police custody.
- In any suspicious or unusual circumstances.
- By criminal abortion.
- By poison.
- By disease constituting a threat to public health.
- By disease, injury, or toxic agent result from employment.

Sudden Unexpected Infant Death (SUID) Initiative

The Centers for Disease Control and Prevention (CDC) defines SIDS as the sudden death of an infant less than 1 year of age that cannot be explained *after* a thorough investigation is conducted, including a complete autopsy, examination of the death scene and review of the clinical history.¹⁰ Beginning in 1998, records showed that medical examiners and coroners began to move away from classifying infant deaths as SIDS and identifying more deaths as accidental suffocations or unknown cause. This movement suggested that the medical examiners and coroners had adopted different reporting and diagnostic procedures. As a result of these changes, the CDC began the Sudden Unexpected Infant Death (SUID) Initiative in order to improve investigation and reporting practices for SIDS and other SUIDs.¹¹

In contrast to SIDS, SUID is defined as deaths in infants less than 1 year of age that occur suddenly and unexpectedly, and whose cause of death is not immediately obvious *prior* to investigation. According to the CDC, more than 4,500 infants die each year suddenly of no immediately obvious cause. Half of these SUIDs are due to SIDS.

¹⁰ Centers for Disease Control and Prevention, *Sudden Infant Death Syndrome*, available at <http://www.cdc.gov/sids/index.htm> (last visited Dec. 19, 2012).

¹¹ Centers for Disease Control and Prevention, *CDC's Sudden Unexpected Infant Death Initiative*, available at <http://www.cdc.gov/sids/suidabout.htm> (last visited Jan. 21, 2013).

The SUID Initiative's goals include the standardization and improvement of data collection at the death scene, promotion of the consistent classification and reporting of the cause of death, improving the national reporting of SUID and reducing SUID by using improved data to identify those at risk. To accomplish these goals, the collaborative has revised reporting forms, developed training materials, trained medicolegal professional and child advocates on how to complete death investigations and implemented a state-based SUID case registry in five pilot states initially and later expanded through grants to cover 10 states.¹²

According to the CDC, SIDS is one of several causes of SUID. SIDS, unlike SUID, is a diagnosis of exclusion. SIDS is a diagnosis that should be given only after all other possible causes of sudden, unexplained death have been ruled out through a careful case investigation, which includes a thorough examination of the death scene, a complete autopsy and a review of the infant's medical history. The most common causes of SUID are: SIDS, suffocation, metabolic errors, injury or trauma and unclassified causes (if the death scene investigation and/or autopsy were incomplete or not done and the death certifier has insufficient evidence to record a more specific cause of death).¹³

Healthy Start Programs

Florida's Healthy Start initiative was signed into law on June 4, 1991. The Healthy Start law provides for universal risk screening of all of Florida's pregnant women and newborn infants to identify those at risk of poor birth, health and development outcomes. The Florida Department of Health administers the program and services are provided through local coalitions.¹⁴

The state's 33 Healthy Start Coalitions are non-profit organizations that provide services statewide to pregnant women and their babies up to age three. By providing these services, the coalitions seek to reduce infant mortality, reduce the number of low birth weight babies and improve health and developmental outcomes.¹⁵ The program identifies women and infants at an increased risk for poor outcomes, provides a professional assessment of their needs and identifies resources to address those needs. The program also refers women to other service providers as needed.

Fetal and Infant Mortality Review

Fetal and Infant Mortality Review (FIMR) began nationally in 1990 as a collaborative process between health departments, providers and maternal and child health coalitions to address factors that impact fetal and infant mortality.

¹² Centers for Disease Control and Prevention, *Sudden Unexpected Infant Death Case Registry*, available at <http://www.cdc.gov/sids/suidabout.htm> (last visited Jan. 21, 2013).

¹³ Carrie Shapiro-Mendoza, Ph.D., M.P.H., CDC, *Sudden, Unexplained Death Investigation, Chapter 1, Types of Sudden, Unexplained Infant Death*, available at http://www.cdc.gov/sids/PDF/SUIDManual/Chapter1_tag508.pdf (last visited Jan. 21, 2013).

¹⁴ See ss. 383.011(1)(e) and 383.216, F.S.

¹⁵ Florida Department of Health, *Healthy Start Annual Report 2011*, available at <http://www.doh.state.fl.us/family/mch/hs/HealthyStartReport2011.pdf> (last visited: Jan. 21, 2013)

FIMR projects were adopted in Florida in 1992 and currently 29 counties participate in this project.¹⁶ A Local Infant Mortality Committee of the Healthy Start Coalition provides an analysis of the basic statistical and epidemiological aspects of the fetal and infant mortality. The committee then selects objectives and plans, and manages the review process.

Florida SIDS Alliance

Concerned SIDS parents and professionals formed the Florida SIDS Alliance in 1985. The alliance operates a hotline (1-800-SIDS-FLA) and a website. The alliance provides a reliable and continuous source of assistance to parents who have lost a child suddenly and unexpectedly; provides information and referrals; sponsors educational campaigns; and promotes research into the cause and possible prevention of SIDS through fundraising and public education.¹⁷

III. Effect of Proposed Changes:

Section 1 amends s. 383.311, F.S., to require that education programs at birth centers include information on safe sleep practices for infants and the causes of SUID.

Section 2 amends s. 383.318, F.S., to require that postpartum care for clients of birth centers include information on safe sleep practices for infants and the causes of SUID.

Section 3 of the bill modifies s. 383.3362, F.S., relating to “sudden infant death syndrome” (SIDS) and replaces those references with the term and corresponding activities for sudden unexpected infant death” (SUIDS). SIDS and SUID are two distinct classifications. The SUID classification occurs prior to an investigation of an infant death and includes numerous common causes, while SIDS is designated only after a full investigation (SIDS). SIDS is still a classification utilized in state reporting.

Legislative findings and intent are amended to reflect current infant death mortality rates and the revised terminology. The bill recognizes that first responders need special training to recognize that infant deaths may be caused by natural or accidental causes as well as by criminal acts and to act appropriately with the deceased infant’s parents or caretakers. The bill also recognizes the importance of multi-disciplinary investigations and the need for standardized investigative protocols in the cases of sudden unexpected infant deaths. Language concerning a standard protocol for the review of SIDS deaths by medical examiners and the importance of follow-up in such deaths is deleted.

The bill further modifies legislative intent by replacing references to SIDS with SUID in order to expand analysis and research on possible causes of sudden unexpected infant death and on how to reduce its incidence.

SUID is defined as the sudden unexpected death of an infant under 1 year of age while in apparent good health whose death may have been a result of natural or unnatural causes,

¹⁶ Florida Department of Health. *FIMR*, available at http://www.doh.state.fl.us/family/mch/FIMR/fimr_facts.html (last visited Jan. 21, 2013).

¹⁷ Florida SIDS Alliance, *About Us*, available at <http://flasids.com/blog/florida-sids-alliance/> (last visited Jan. 21, 2013).

replacing the definition of SIDS. The SUID definition matches the definition utilized by the Centers for Disease Control and Prevention.

The bill changes the basic training program for emergency medical technicians, paramedics, firefighters and certain law enforcement officers to address SUID rather than SIDS and deletes an obsolete date. The bill revises the requirement that DOH adopt rules on SIDS. The bill would instead require the DOH to work with the child protection teams within the Division of Children's Medical Services develop and adopt, by rule, curriculum that is based on the federal Centers for Disease Control SUID Initiative.

The bill requires an autopsy for any infant younger than 1 year of age who dies suddenly and unexpectedly while in apparent good health by the medical examiner under s. 406.11, F.S. Medical examiners currently follow practice guidelines (article 26 as incorporated into Rule 11G, F.A.C.) that require an autopsy for the sudden and unexpected death of infants younger than 1 year of age. The bill requires that a medical examiner must perform the autopsy within 72 hours. The medical examiner would no longer need to state on the death certificate that SIDS was the cause of death or follow the SIDS protocol when conducting autopsies. The bill deletes a redundant statutory cross-reference to the authority of the medical examiner.

The bill directs the Medical Examiners Commission to develop and implement a protocol for the medicolegal investigation of SUID and deletes a reference to a protocol for SIDS.

The bill amends the duties of the DOH to replace SIDS references to SUID in the training programs of the department, the database of statistics and the library of reference materials. The bill deletes the DOH's liaison responsibility with the Florida SIDS Alliance with regard specifically to the SIDS hotline. The bill also deletes the DOH's responsibilities to coordinate activities with the local SIDS alliance and other groups including the fetal and infant mortality review committee of the local healthy start coalitions. Coordination with other related support groups remains a function under this provision.

Section 4 of the bill creates s. 395.1053, F.S., to require that a hospital that provides birthing services incorporate information on safe sleep practices for infants and the causes of SUID as a part of its postpartum care.

Section 5 of the bill provides for an effective date of July 1, 2013.

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:

The Department of Health is no longer required specifically to include the local SIDS alliances in certain coordination and promotion activities. This may result in reduced participation by the community-based alliances.

C. Government Sector Impact:

State Government

Rules, training curriculum and guidelines may need to be amended to reflect the changes in terminology and standards from SIDS to SUID. The Departments of Health and Law Enforcement do not expect the bill will create a fiscal impact on their agencies.

Local Government

Medical examiners are funded by the counties. The bill codifies the current practice where medical examiners conduct autopsies for all unexpected deaths of children under 1 year of age. The bill will therefore not increase the workload and costs of the medical examiner district offices.

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.)

CS by Children, Families, and Elder Affairs on March 12, 2013:

- Requires birth centers to provide information on safe sleep practices for infants and the causes of SUID.
- Requires the Department of Health to include the child protection teams within the Division of Children's Medical Services in the development of the rule for law enforcement investigations of sudden infant deaths. The bill further requires that the curriculum be based on the federal Centers for Disease Control SUID Initiative.

- Requires that medical examiners conduct autopsies on infants who die suddenly and unexpectedly within 72 hours.
- Requires hospitals with birthing services to provide information to patients on safe sleep practices for infants and the causes of SUID.

B. Amendments:

None.

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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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/13/2013	.	
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The Committee on Children, Families, and Elder Affairs (Hays) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Section 383.3362, Florida Statutes, is amended to read:

383.3362 Sudden Unexpected Infant Death ~~Syndrome~~.—

(1) FINDINGS AND INTENT.—The Legislature recognizes that more than 4,500 infants in the United States die suddenly and unexpectedly of no immediate or obvious cause. According to statistics from the Department of Health, more than 200 infants in this state experienced Sudden Unexpected Infant Death in 2010



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13 ~~sudden Infant death Syndrome, or SIDS, is a leading cause of~~
14 ~~death among children under the age of 1 year, both nationally~~
15 ~~and in this state. The Legislature further recognizes that first~~
16 ~~responders to emergency calls relating to such a death need~~
17 ~~access to special training to better enable them to recognize~~
18 ~~that such deaths may result from natural and accidental causes~~
19 ~~or may be caused ~~distinguish SIDS from death caused by criminal~~~~
20 ~~acts and to appropriately interact with the deceased infant's~~
21 ~~parents or caretakers. At the same time, the Legislature,~~
22 ~~recognizing that the primary focus of first responders is to~~
23 ~~carry out their assigned duties, intends to increase ~~the~~~~
24 ~~awareness of the possible causes of Sudden Unexpected Infant~~
25 ~~Death ~~SIDS by first responders, but in no way expand or take~~~~
26 ~~away from their duties. Further, the Legislature recognizes the~~
27 ~~importance of a multidisciplinary investigation and standardized~~
28 ~~investigative protocols in cases of Sudden Unexpected Infant~~
29 ~~Death ~~standard protocol for review of SIDS deaths by medical~~~~
30 ~~examiners and the importance of appropriate followup in cases of~~
31 ~~certified or suspected SIDS deaths. Finally, the Legislature~~
32 ~~finds that it is desirable to analyze existing data, and ~~to~~~~
33 ~~conduct further research on, the possible causes of Sudden~~
34 ~~Unexpected Infant Death ~~SIDS and on how to reduce its incidence~~~~
35 ~~lower the number of sudden infant deaths.~~

36 (2) DEFINITION.—As used in this section, the term "Sudden
37 Unexpected Infant Death Syndrome," or "SUID," "~~SIDS,~~" means the
38 sudden unexpected death of an infant under 1 year of age while
39 in apparent good health whose death may have been a result of
40 natural or unnatural causes ~~which remains unexplained after a~~
41 ~~complete autopsy, death-scene investigation, and review of the~~



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42 ~~ease history. The term includes only those deaths for which,~~
43 ~~currently, there is no known cause or cure.~~

44 (3) TRAINING.—

45 (a) The Legislature finds that an emergency medical
46 technician, a paramedic, a firefighter, or a law enforcement
47 officer is likely to be the first responder to a request for
48 assistance which is made immediately after the sudden unexpected
49 death of an infant. The Legislature further finds that these
50 first responders should be trained in appropriate responses to
51 sudden infant death.

52 (b) ~~After January 1, 1995,~~ The basic training programs
53 required for certification as an emergency medical technician, a
54 paramedic, a firefighter, or a law enforcement officer as
55 defined in s. 943.10, other than a correctional officer or a
56 correctional probation officer, must include curriculum that
57 contains instruction on SUID ~~Sudden Infant Death Syndrome~~.

58 (c) The Department of Health, in consultation with the
59 Emergency Medical Services Advisory Council, the Firefighters
60 Employment, Standards, and Training Council, the child
61 protection teams established in Children's Medical Services
62 program, and the Criminal Justice Standards and Training
63 Commission, shall develop and adopt, by rule, curriculum that,
64 at a minimum, includes training in the nature of SUID ~~SIDS~~,
65 standard procedures to be followed by law enforcement agencies
66 in investigating cases involving sudden deaths of infants, and
67 training in responding appropriately to the parents or
68 caretakers who have requested assistance.

69 (4) AUTOPSIES.—

70 (a) The death of any infant younger than 1 year of age who



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71 dies suddenly and unexpectedly while in apparent good health
72 falls under the jurisdiction of the medical examiner as provided
73 in s. 406.11. The medical examiner must perform an autopsy upon
74 any infant under the age of 1 year who is suspected to have died
75 of Sudden Infant Death Syndrome. The autopsy must be performed
76 within 24 hours after the death, or as soon thereafter as is
77 feasible. When the medical examiner's findings are consistent
78 with the definition of sudden infant death syndrome in
79 subsection (2), the medical examiner must state on the death
80 certificate that sudden infant death syndrome was the cause of
81 death.

82 (b) The Medical Examiners Commission shall provide for the
83 development and implementation of ~~develop and implement~~ a
84 protocol for the medicolegal investigation of SUID ~~dealing with~~
85 ~~suspected sudden infant death syndrome. The protocol must be~~
86 ~~followed by all medical examiners when conducting the autopsies~~
87 ~~required under this subsection. The protocol may include~~
88 requirements and standards for scene investigations,
89 requirements for specific data, criteria for any specific tissue
90 sampling, and any other requirements that are deemed
91 ~~ascertaining cause of death based on the autopsy, criteria for~~
92 ~~any specific tissue sampling, and any other requirements that~~
93 ~~the commission considers necessary.~~

94 (c) A medical examiner is not liable for damages in a civil
95 action for any act or omission done in compliance with this
96 subsection.

97 ~~(d) An autopsy must be performed under the authority of a~~
98 ~~medical examiner under s. 406.11.~~

99 (5) DEPARTMENT DUTIES RELATING TO SUDDEN UNEXPECTED INFANT



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100 DEATH (SUID) SYNDROME ~~(SIDS)~~.—The Department of Health, in
101 consultation with the child protection teams established in the
102 Children’s Medical Services program, shall:

103 (a) Collaborate with other agencies in the development and
104 presentation of the SUID ~~Sudden Infant Death Syndrome (SIDS)~~
105 training programs for first responders, including those for
106 emergency medical technicians and paramedics, firefighters, and
107 law enforcement officers.

108 (b) Maintain a database of statistics on reported SUID ~~SIDS~~
109 deaths, and analyze the data as funds allow.

110 (c) Serve as liaison and closely coordinate activities with
111 the Florida SIDS Alliance, ~~including the services related to the~~
112 ~~SIDS hotline.~~

113 (d) Maintain a library reference list and materials about
114 SUID ~~SIDS~~ for public dissemination.

115 (e) Provide professional support to field staff.

116 (f) Coordinate the activities of and promote a link between
117 the fetal and infant mortality review committees of the local
118 healthy start coalitions, the Florida ~~lead~~ SIDS Alliance, and
119 other related support groups.

120 (6) SUID AND SAFE SLEEP INFORMATION.—Each hospital and
121 birthing center in this state shall provide information on SUID
122 and safe sleep practices to parents of newborns before
123 discharge.

124 Section 2. This act shall take effect July 1, 2013.

126 ===== T I T L E A M E N D M E N T =====

127 And the title is amended as follows:

128 Delete everything before the enacting clause



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129 and insert:

130 A bill to be entitled
131 An act relating to infant death; amending s. 383.3362,
132 F.S.; revising legislative findings and intent with
133 respect to the sudden unexpected death of an infant
134 under a specified age; defining the term "Sudden
135 Unexpected Infant Death" (SUID); revising provisions
136 relating to training requirements for first
137 responders; revising requirements relating to
138 autopsies performed by medical examiners; requiring
139 the Medical Examiners Commission to provide for the
140 development and implementation of a protocol for the
141 medicolegal investigation of SUID; requiring each
142 hospital and birthing center in this state to provide
143 information on SUID and safe sleep practices to
144 parents of newborns before discharge; providing an
145 effective date.



540308

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/13/2013	.	
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The Committee on Children, Families, and Elder Affairs (Hays) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Paragraph (f) of subsection (2) of section 383.311, Florida Statutes, is amended to read:

383.311 Education and orientation for birth center clients and their families.—

(2) The clients shall be prepared for childbirth and childbearing by education in:

(f) The care of the newborn to include safe sleep practices and the possible causes of Sudden Unexpected Infant Death.



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13 Section 2. Paragraph (e) of subsection (3) of section
14 383.318, Florida Statutes, is amended to read:

15 383.318 Postpartum care for birth center clients and
16 infants.—

17 (3) Postpartum evaluation and followup care shall be
18 provided, which shall include:

19 (e) Instruction in child care, including immunization, and
20 breastfeeding, safe sleep practices, and possible causes of
21 Sudden Unexpected Infant Death.

22 Section 3. Section 383.3362, Florida Statutes, is amended
23 to read:

24 383.3362 Sudden Unexpected Infant Death Syndrome.—

25 (1) FINDINGS AND INTENT.—The Legislature recognizes that
26 more than 4,500 infants in the United States die suddenly and
27 unexpectedly of no immediate or obvious cause. According to
28 statistics from the Department of Health, more than 200 infants
29 in this state experienced Sudden Unexpected Infant Death in 2010
30 ~~sudden Infant death Syndrome, or SIDS, is a leading cause of~~
31 ~~death among children under the age of 1 year, both nationally~~
32 ~~and in this state.~~ The Legislature further recognizes that first
33 responders to emergency calls relating to such a death need
34 access to special training to better enable them to recognize
35 that such deaths may result from natural and accidental causes
36 or may be caused ~~distinguish SIDS from death caused by criminal~~
37 acts and to appropriately interact with the deceased infant's
38 parents or caretakers. At the same time, the Legislature,
39 recognizing that the primary focus of first responders is to
40 carry out their assigned duties, intends to increase the
41 awareness of the possible causes of Sudden Unexpected Infant



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42 ~~Death SIDS by first responders,~~ but in no way expand or take
43 away from their duties. Further, the Legislature recognizes the
44 importance of a multidisciplinary investigation and standardized
45 investigative protocols in cases of Sudden Unexpected Infant
46 Death standard protocol for review of SIDS deaths by medical
47 examiners and the importance of appropriate followup in cases of
48 certified or suspected SIDS deaths. Finally, the Legislature
49 finds that it is desirable to analyze existing data, and to
50 conduct further research on, the possible causes of Sudden
51 Unexpected Infant Death SIDS and on how to reduce its incidence
52 ~~lower the number of sudden infant deaths.~~

53 (2) DEFINITION.—As used in this section, the term "Sudden
54 Unexpected Infant Death Syndrome," or "SUID," "SIDS," means the
55 sudden unexpected death of an infant under 1 year of age while
56 in apparent good health whose death may have been a result of
57 natural or unnatural causes ~~which remains unexplained after a~~
58 ~~complete autopsy, death-scene investigation, and review of the~~
59 ~~case history. The term includes only those deaths for which,~~
60 ~~currently, there is no known cause or cure.~~

61 (3) TRAINING.—

62 (a) The Legislature finds that an emergency medical
63 technician, a paramedic, a firefighter, or a law enforcement
64 officer is likely to be the first responder to a request for
65 assistance which is made immediately after the sudden unexpected
66 death of an infant. The Legislature further finds that these
67 first responders should be trained in appropriate responses to
68 sudden infant death.

69 (b) ~~After January 1, 1995,~~ The basic training programs
70 required for certification as an emergency medical technician, a



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71 paramedic, a firefighter, or a law enforcement officer as
72 defined in s. 943.10, other than a correctional officer or a
73 correctional probation officer, must include curriculum that
74 contains instruction on SUID ~~Sudden Infant Death Syndrome~~.

75 (c) The Department of Health, in consultation with the
76 Emergency Medical Services Advisory Council, the Firefighters
77 Employment, Standards, and Training Council, the child
78 protection teams established in the Division of Children's
79 Medical Services, and the Criminal Justice Standards and
80 Training Commission, shall develop and adopt, by rule,
81 curriculum that is as part of the Centers for Disease Control
82 SUID Initiative which must ~~that, at a minimum, includes training~~
83 ~~in the nature of SIDS, standard procedures to be followed by law~~
84 ~~enforcement agencies in investigating cases involving sudden~~
85 ~~deaths of infants, and training in responding appropriately to~~
86 ~~the parents or caretakers who have requested assistance.~~

87 (4) AUTOPSIES.—

88 (a) The death of any infant younger than 1 year of age who
89 dies suddenly and unexpectedly while in apparent good health
90 falls under the jurisdiction of the medical examiner as provided
91 in s. 406.11 ~~The medical examiner must perform an autopsy upon~~
92 ~~any infant under the age of 1 year who is suspected to have died~~
93 ~~of Sudden Infant Death Syndrome. The autopsy must be performed~~
94 ~~within 24 hours after the death, or as soon thereafter as is~~
95 ~~feasible. When the medical examiner's findings are consistent~~
96 ~~with the definition of sudden infant death syndrome in~~
97 ~~subsection (2), the medical examiner must state on the death~~
98 ~~certificate that sudden infant death syndrome was the cause of~~
99 ~~death.~~



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100 (b) The Medical Examiners Commission shall provide for the
101 development and implementation of ~~develop and implement~~ a
102 protocol for the medicolegal investigation of SUID ~~dealing with~~
103 ~~suspected sudden infant death syndrome. The protocol must be~~
104 ~~followed by all medical examiners when conducting the autopsies~~
105 ~~required under this subsection.~~ The protocol may include
106 requirements and standards for scene investigations,
107 requirements for specific data, criteria for any specific tissue
108 sampling, and any other requirements that are deemed
109 ~~ascertaining cause of death based on the autopsy, criteria for~~
110 ~~any specific tissue sampling, and any other requirements that~~
111 ~~the commission considers necessary.~~

112 (c) A medical examiner is not liable for damages in a civil
113 action for any act or omission done in compliance with this
114 subsection.

115 ~~(d) An autopsy must be performed under the authority of a~~
116 ~~medical examiner under s. 406.11.~~

117 (5) DEPARTMENT DUTIES RELATING TO SUDDEN UNEXPECTED INFANT
118 DEATH (SUID) ~~SYNDROME (SIDS).~~—The Department of Health, in
119 consultation with the child protection teams established in the
120 Division of Children’s Medical Services, shall:

121 (a) Collaborate with other agencies in the development and
122 presentation of the SUID ~~Sudden Infant Death Syndrome (SIDS)~~
123 training programs for first responders, including those for
124 emergency medical technicians and paramedics, firefighters, and
125 law enforcement officers.

126 (b) Maintain a database of statistics on reported SUID ~~SIDS~~
127 ~~deaths,~~ and analyze the data as funds allow.

128 (c) Serve as liaison and closely coordinate activities with



129 the Florida SIDS Alliance, ~~including the services related to the~~
130 ~~SIDS hotline.~~

131 (d) Maintain a library reference list and materials about
132 SUID ~~SIDS~~ for public dissemination.

133 (e) Provide professional support to field staff.

134 (f) Coordinate the activities of and promote a link between
135 the fetal and infant mortality review committees of the local
136 healthy start coalitions, the Florida ~~local~~ SIDS Alliance, and
137 other related support groups.

138 Section 4. Section 395.1053, Florida Statutes, is created
139 to read:

140 395.1053 Postpartum education.—A hospital that provides
141 birthing services shall incorporate information on safe sleep
142 practices and the possible causes of Sudden Unexpected Infant
143 Death into the hospital's postpartum instruction on the care of
144 newborns.

145 Section 5. This act shall take effect July 1, 2013.

146
147 ===== T I T L E A M E N D M E N T =====

148 And the title is amended as follows:

149 Delete everything before the enacting clause
150 and insert:

151 A bill to be entitled
152 An act relating to infant death; amending s. 383.311,
153 F.S.; revising the education and orientation
154 requirements for birth centers and their families to
155 incorporate safe sleep practices and causes of Sudden
156 Unexpected Infant Death; amending s. 383.318, F.S.;
157 revising the postpartum care for birth center clients



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158 and infants to incorporate instruction on safe sleep
159 practices and causes of Sudden Unexpected Infant
160 Death; amending s. 383.3362, F.S.; revising
161 legislative findings and intent with respect to the
162 sudden unexpected death of an infant under a specified
163 age; defining the term "Sudden Unexpected Infant
164 Death"; revising provisions relating to training
165 requirements for first responders; revising
166 requirements relating to autopsies performed by
167 medical examiners; requiring the Medical Examiners
168 Commission to provide for the development and
169 implementation of a protocol for the medicolegal
170 investigation of Sudden Unexpected Infant Death;
171 creating s. 395.1053, F.S.; requiring a hospital that
172 provides birthing services to incorporate information
173 on safe sleep practices and the possible causes of
174 sudden unexpected infant death into the hospital's
175 postpartum instruction on the care of newborns;
176 providing an effective date.



512648

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/13/2013	.	
	.	
	.	
	.	

The Committee on Children, Families, and Elder Affairs (Hays) recommended the following:

Senate Amendment to Amendment (540308)

Delete lines 93 - 95
and insert:
~~of Sudden Infant Death Syndrome.~~ The autopsy must be performed
within 72 ~~24~~ hours after the death, or as soon thereafter as is
feasible. ~~When the medical examiner's findings are consistent~~

By Senator Hays

11-00035A-13

201356__

1 A bill to be entitled
 2 An act relating to infant death; amending s. 383.3362,
 3 F.S.; revising legislative findings and intent with
 4 respect to the sudden unexpected death of an infant
 5 under a specified age; defining the term "sudden
 6 unexpected infant death"; revising provisions relating
 7 to training requirements for first responders;
 8 revising requirements relating to autopsies performed
 9 by medical examiners; requiring the Medical Examiners
 10 Commission to provide for the development and
 11 implementation of a protocol for the medicolegal
 12 investigation of sudden unexpected infant deaths;
 13 deleting references to the SIDS hotline and local SIDS
 14 alliances; providing an effective date.

15
 16 Be It Enacted by the Legislature of the State of Florida:

17
 18 Section 1. Section 383.3362, Florida Statutes, is amended
 19 to read:

20 383.3362 Sudden unexpected infant death ~~Syndrome~~.—
 21 (1) FINDINGS AND INTENT.—The Legislature recognizes that
 22 more than 4,500 infants in the United States die suddenly and
 23 unexpectedly of no immediate or obvious cause. According to
 24 statistics from the Department of Health, more than 200 infants
 25 in this state experienced sudden unexpected infant death in 2010
 26 sudden Infant death Syndrome, or SIDS, is a leading cause of
 27 death among children under the age of 1 year, both nationally
 28 and in this state. The Legislature further recognizes that first
 29 responders to emergency calls relating to such a death need

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

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30 access to special training to better enable them to recognize
 31 that such deaths may result from natural and accidental causes
 32 or may be caused ~~distinguish SIDS from death caused~~ by criminal
 33 acts and to appropriately interact with the deceased infant's
 34 parents or caretakers. At the same time, the Legislature,
 35 recognizing that the primary focus of first responders is to
 36 carry out their assigned duties, intends to increase ~~the~~
 37 awareness of the possible causes of sudden unexpected infant
 38 deaths ~~SIDS by first responders~~, but in no way expand or take
 39 away from their duties. Further, the Legislature recognizes the
 40 importance of a multidisciplinary investigation and standardized
 41 investigative protocols in cases of sudden unexpected infant
 42 standard protocol for review of SIDS deaths by medical examiners
 43 and the importance of appropriate followup in cases of certified
 44 or suspected SIDS deaths. Finally, the Legislature finds that it
 45 is desirable to analyze existing data, ~~and to~~ conduct further
 46 research on, the possible causes of sudden unexpected infant
 47 death ~~SIDS~~ and on how to reduce its incidence ~~lower the number~~
 48 ~~of sudden infant deaths~~.

49 (2) DEFINITION.—As used in this section, the term "sudden
 50 unexpected infant death ~~Syndrome~~," or "SUID," ~~"SIDS,"~~ means the
 51 sudden unexpected death of an infant under 1 year of age while
 52 in apparent good health whose death may have been a result of
 53 natural or unnatural causes which remains unexplained after a
 54 complete autopsy, death scene investigation, and review of the
 55 case history. The term includes only those deaths for which,
 56 currently, there is no known cause or cure.

57 (3) TRAINING.—

58 (a) The Legislature finds that an emergency medical

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

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59 technician, a paramedic, a firefighter, or a law enforcement
60 officer is likely to be the first responder to a request for
61 assistance which is made immediately after the sudden unexpected
62 death of an infant. The Legislature further finds that these
63 first responders should be trained in appropriate responses to
64 sudden infant death.

65 (b) ~~After January 1, 1995,~~ The basic training programs
66 required for certification as an emergency medical technician, a
67 paramedic, a firefighter, or a law enforcement officer as
68 defined in s. 943.10, other than a correctional officer or a
69 correctional probation officer, must include curriculum that
70 contains instruction on SUID Sudden Infant Death Syndrome.

71 (c) The Department of Health, in consultation with the
72 Emergency Medical Services Advisory Council, the Firefighters
73 Employment, Standards, and Training Council, and the Criminal
74 Justice Standards and Training Commission, shall develop and
75 adopt, by rule, curriculum that, at a minimum, includes training
76 in the nature of SUID SIDS, standard procedures to be followed
77 by law enforcement agencies in investigating cases involving
78 sudden deaths of infants, and training in responding
79 appropriately to the parents or caretakers who have requested
80 assistance.

81 (4) AUTOPSIES.—

82 (a) The death of any infant younger than 1 year of age who
83 dies suddenly and unexpectedly while in apparent good health
84 falls under the jurisdiction of the medical examiner as provided
85 in s. 406.11. The medical examiner must perform an autopsy upon
86 any infant under the age of 1 year who is suspected to have died
87 of Sudden Infant Death Syndrome. The autopsy must be performed

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88 ~~within 24 hours after the death, or as soon thereafter as is~~
89 ~~feasible. When the medical examiner's findings are consistent~~
90 ~~with the definition of sudden infant death syndrome in~~
91 ~~subsection (2), the medical examiner must state on the death~~
92 ~~certificate that sudden infant death syndrome was the cause of~~
93 ~~death.~~

94 (b) The Medical Examiners Commission shall provide for the
95 development and implementation of ~~develop and implement~~ a
96 protocol for the medicolegal investigation of SUID dealing with
97 suspected sudden infant death syndrome. The protocol must be
98 followed by all medical examiners when conducting the autopsies
99 required under this subsection. The protocol may include
100 requirements and standards for scene investigations,
101 requirements for specific data, criteria for any specific tissue
102 sampling, and any other requirements that are deemed
103 ascertaining cause of death based on the autopsy, criteria for
104 any specific tissue sampling, and any other requirements that
105 the commission considers necessary.

106 (c) A medical examiner is not liable for damages in a civil
107 action for any act or omission done in compliance with this
108 subsection.

109 ~~(d) An autopsy must be performed under the authority of a~~
110 ~~medical examiner under s. 406.11.~~

111 (5) DEPARTMENT DUTIES RELATING TO SUDDEN UNEXPECTED INFANT
112 DEATH (SUID) SYNDROME (SIDS).—The Department of Health shall:

113 (a) Collaborate with other agencies in the development and
114 presentation of the SUID Sudden Infant Death Syndrome (SIDS)
115 training programs for first responders, including those for
116 emergency medical technicians and paramedics, firefighters, and

11-00035A-13

201356__

117 law enforcement officers.

118 (b) Maintain a database of statistics on reported SUID ~~SIDS~~
119 deaths, and analyze the data as funds allow.

120 (c) Serve as liaison and closely coordinate activities with
121 the Florida SIDS Alliance, ~~including the services related to the~~
122 ~~SIDS hotline.~~

123 (d) Maintain a library reference list and materials about
124 SUID ~~SIDS~~ for public dissemination.

125 (e) Provide professional support to field staff.

126 (f) Coordinate the activities of and promote a link between
127 the fetal and infant mortality review committees of the local
128 healthy start coalitions, ~~the local SIDS alliance,~~ and other
129 related support groups.

130 Section 2. This act shall take effect July 1, 2013.



The Florida Senate
Committee Agenda Request

RECEIVED

JAN 28 2013

Senate Committee
Children and Families

To: Senator Eleanor Sobel, Chair
Children, Families, and Elder Affairs

CC: Claude Hendon, Staff Director
Lynn Wells, Administrative Assistant

Subject: Committee Agenda Request

Date: January 23, 2013

I respectfully request that **Senate Bill #56**, relating to Infant Death, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in black ink that reads "Alan Hays".

Senator Alan Hays
Florida Senate, District 11
320 Senate Office Building
(850) 487-5011

THE FLORIDA SENATE

APPEARANCE RECORD

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

03/12/13

Meeting Date

Topic Infant Death

Bill Number 56 (if applicable)

Name Dr. Barbara Wolf

Amendment Barcode (if applicable)

Job Title Dist. 5 Medical Examiner

Address 809 Pine Street

Phone (352) 326-5961

Leesburg Florida 34748 (City, State, Zip)

E-mail

Speaking: [X] For [] Against [] Information

Representing

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [] Yes [X] 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)

3/12/13

Meeting Date

Topic

Bill Number BB 56 (if applicable)

Name SAM BELL

Amendment Barcode (if applicable)

Job Title

Address 1298 MILLSTREAM

Phone 850 222-3533

TALL FL 32312 (City, State, Zip)

E-mail

Speaking: [] For [] Against [] Information

Representing FLORIDA PEDIATRIC SOCIETY

Appearing at request of Chair: [] Yes [] No

Lobbyist registered with Legislature: [X] 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)

3-12-13

Meeting Date

Topic Infant Death

Bill Number 56 (if applicable)

Name Charlene Melcher

Amendment Barcode (if applicable)

Job Title Realtor

Address 3593 Siderwheel Drive Street

Phone 407-242-4701

Rockledge FL 32955 City State Zip

E-mail charmelcher@aol.com

Speaking: For [] Against [x] Information []

Representing FL SIDS Alliance

Appearing at request of Chair: Yes [] No [x]

Lobbyist registered with Legislature: Yes [] No [x]

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)

3-12-13

Meeting Date

Topic Infant Death

Bill Number 56 (if applicable)

Name Judy Lahnam

Amendment Barcode (if applicable)

Job Title

Address 17277 Deer Run Dr Street

Phone 904-703-4108

Orlando FL 32720 City State Zip

E-mail judylahnam3@yahoo.com

Speaking: For [] Against [x] Information []

Representing FL SIDS Alliance

Appearing at request of Chair: Yes [] No [x]

Lobbyist registered with Legislature: Yes [] No [x]

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)

3-12-13

Meeting Date

Topic Infant Death

Bill Number 56
(if applicable)

Name Bunny Hamer, RN, MSW

Amendment Barcode _____
(if applicable)

Job Title Vice President

Address 2176 Alaguna Drive

Phone 305-903-7124

Longwood FL 32779
City State Zip

E-mail bunny.hamer@gmail.com

Speaking: For Against Information

Representing FL SIDS 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 Committee on Children, Families, and Elder Affairs

BILL: CS/SB 630

INTRODUCER: Children, Families, and Elder Affairs Committee and Senator Clemens

SUBJECT: Regulation of Summer Camps

DATE: March 12, 2013 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Preston	Hendon	CF	Fav/CS
2.			RC	
3.				
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

CS/SB 630 requires the Department of Children and Families (DCF or the department) to license summer day camps and summer 24-hour camps under chapter 409, Florida Statutes. The bill makes numerous conforming changes to chapter 409, Florida Statutes, to reflect the new licensure requirement.

The bill creates an unnumbered section of the Florida Statutes that requires summer day camps and summer 24-hour camps to also be registered with the department. The bill adds background screening requirements to certain volunteers in those camps. The bill also provides for inspections by the department, provides for sanctions and creates criminal penalties for certain acts relating to failing to register and misrepresentation of registration.

This bill is anticipated to have a significant fiscal impact on the state, an indeterminate fiscal impact on the five counties that currently license day care facilities, an indeterminate fiscal impact on the private sector, and has an effective date of July 1, 2013.

This bill substantially amends section 409.175 of the Florida Statutes. This bill creates an unnumbered section of the Florida Statutes:

II. Present Situation:

Background

Definitions

Provisions and requirements relating to summer camps and summer 24-hour camps have historically been included in both chs. 402 and 409, F.S., which has led to some inconsistencies in terminology. For example:

- Chapter 409, F.S., defines the term “summer day camp” to mean “recreational, educational, and other enrichment programs operated during summer vacations for children who are 5 years of age on or before September 1 and older.”¹
- Chapter 409, F.S., defines the term “summer 24-hour camp” to mean “recreational, educational, and other enrichment programs operated on a 24-hour basis during summer vacation for children who are 5 years of age on or before September 1 and older, that are not exclusively educational.”²
- “Summer day camps” and “summer camps having children in full-time residence” are specifically excluded from the definition of the term “child care facility” in ch. 402, F.S.³
- “Summer or recreation camps” are specifically excluded from the definition of the term “residential child-caring agency in ch. 409, F.S.”⁴
- The term “summer recreation camps” while used in both chs. 402 and 409, F.S., is not defined in either chapter.⁵
- Camps that are operated at times of the year other than summer, such as during the December holidays and spring break are not defined or addressed in statute.

Background Screening

Chapter 435, F.S., governs background screening standards and requirements for employment:

- **Level 1 screening standards** – Employees required by law to be screened pursuant to Level 1 standards must undergo background screening which includes, but need not be limited to, employment history checks and statewide criminal correspondence checks through the Florida Department of Law Enforcement (FDLE), and a check of the Dru Sjodin National Sex Offender Public Website, and may include local criminal records checks through local law enforcement agencies.⁶
- **Level 2 screening standards** – Employees required by law to be screened pursuant to Level 2 standards must undergo a security background investigation which includes, but need not be limited to, fingerprinting for statewide criminal history records checks through the Department of Law Enforcement, and national criminal history records checks through the

¹ Section 409.175(2)(l), F.S.

² Section 409.175(2)(m), F.S.

³ Section 402.302, F.S.

⁴ Section 409.175, F.S.

⁵ The term “recreational camp” is defined in s. 513.01, F.S. These camps are regulated by the Department of Health.

⁶ Section 435.03, F.S.

Federal Bureau of Investigation, and may include local criminal records checks through local law enforcement agencies.⁷

- **Disqualifying offenses** – Level 1 and Level 2 screenings must ensure that no person has been arrested for and is awaiting final disposition of, has been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or has been adjudicated delinquent and the record has not been sealed or expunged for, any of an expansive list of specified offenses.⁸
- **Exemptions from disqualification** – The head of the appropriate agency may grant to any employee otherwise disqualified from employment an exemption from disqualification under a number of specified circumstances.⁹

The determination as to personnel required to be screened and the level of screening needed is set forth in substantive law governing each activity in which employees are required to be screened.

In 1987, the Legislature provided an exemption for “human resource personnel” other than owners and operators of summer recreation camps, summer day camps and summer 24-hour camps from the requirement to be fingerprinted for employee screening under either ch. 409, F.S., (which governs employees and owner/operators of child-placing agencies, family foster homes, and residential child-caring agencies) or ch. 402, F.S., (which governs child care facilities). These personnel were, however, required to comply with all other screening requirements.¹⁰

The term “human resource personnel” was not defined in either ch. 402, F.S., or ch. 409, F.S.

- The definition of the term “child care personnel” found in ch. 402, F.S., included the following: “For purposes of screening, the term shall also include persons who work in child care programs which provide care for children 15 hours or more each week in public or nonpublic schools, **summer day camps**, family day care homes, or those programs otherwise exempted under s. 402.316, F.S.”¹¹ This definition and the specific language of s. 402.316, F.S., require the screening of the personnel of these facilities despite their being otherwise exempt from licensure requirements.¹² This definition did not include personnel working in summer 24-hour camps. In 2010, the legislature removed the reference to “summer day camps” from the definition.¹³
- The definition of the term “personnel” in ch. 409, F.S., included the following: “For the purposes of screening, the term ‘personnel’ shall include owners, operators, employees, and volunteers working in **summer day camps**, or **summer 24-hour camps** providing care for children. A volunteer who assists on an intermittent basis for less than 40 hours per month

⁷ Section 435.04, F.S.

⁸ *Id.*

⁹ Section 435.07, F.S.

¹⁰ Chapter 87-141, Laws of Fla. (s. 409.1758, F.S. effective 2009)

¹¹ Section 402.316, F.S., relates to child care facilities which are exempt from licensing requirements due to their affiliation with church or parochial schools.

¹² Section 402.302(3), F.S.(2009).

¹³ Chapter 2010-114, Laws of Fla.

shall not be included in the term ‘personnel’ for the purposes of screening, provided that the volunteer is under direct and constant supervision by persons who meet the personnel requirements of this section.”^{14,15}

In 2010, the legislature repealed s. 409.1758, F.S., relating to screening for summer camp personnel, which means that all summer camp and summer 24-hour camp owners, operators, employees and volunteers that assist more than 10 hours per month must currently comply with Level 2 background screening.¹⁶

Concurrent with the repeal of s. 409.1758, F.S., the department began a campaign to notify summer day camps and summer 24-hour camps of the new screening requirements, created news releases for media outlets throughout the state, and created and mailed a flyer explaining the new screening requirements to numerous summer camps. DCF worked with community partners, such as Florida’s Office of Early Learning’s Resource and Referral unit and local Early Learning Coalitions, to obtain a listing of summer camps, and conducted an internet search to identify summer camps. Identifying the summer camps operating in Florida is difficult because they are exempt from regulatory oversight, and there is no registration or other self-identification requirement.¹⁷

Because summer camps and summer 24 hour camps are transient in nature and because they are currently not subject to licensure, the department faces a challenge in not only identifying camps and notifying them of the background screening requirements, but also in ensuring that camps comply with the background screening law. As part of a review by the department’s Office of the Inspector General, staff chose a sample of 50 of the 532 summer camps on a list identified by the Office of Early Learning and found that:

- Only 19 of the 50 summer camps could be verified as being registered with the department’s background screening office’s Caretaker Screening Information System (CSIS) as of August 19, 2011; and
- For 16 of those 19 camps, there was verification of screened applicants in CSIS.¹⁸

The department has also established a protocol for public reporting and receipt of complaints alleging background screening violations by summer camps. DCF logs such complaints and investigates within 48 hours. If the allegations are substantiated, DCF works with the summer camp to expedite the screening of the owners, operators, employees and volunteers. If the summer camp will not comply with screening requirements, DCF will seek closure of the camp.¹⁹

¹⁴ Section 409.175(2)(i), F.S. (2009).

¹⁵ In 2010, the Legislature revised the criteria for volunteers to read: “A volunteer who assists on an intermittent basis for less than 10 hours per month shall not be included in the term “personnel” for the purposes of the screening requirement of this section is always present and has the volunteer in his or her line of sight.” Chapter 2010-114, F.S.

¹⁶ Chapter 2010-114, Laws of Fla.

¹⁷ Department of Children and Families. *Staff Analysis and Economic Impact. SB 630.* (Feb. 11, 2013).

¹⁸ Department of Children and Families. Office of the Inspector General. Internal Audit. *Assurance Report, Background Screening Office. Project No. A-1112DCF-010.* (Jan. 20, 2012).

¹⁹ Department of Children and Families. *Staff Analysis and Economic Impact. SB 630.* (Feb. 11, 2013).

In March 2013, the department plans to release the “Summer Camp Voluntary Registration Portal.” The portal will provide summer camps with the opportunity for free advertising to parents and the general public through the department’s website. To register a summer camp in the portal, the summer camp operator must provide the camp’s assigned identification numbers, which are mandatory for the completion of background screening and can be obtained only when the summer camp establishes an account with DCF’s Background Screening Unit.²⁰

The department is authorized to adopt rules relating to the screening requirements for summer day camps and summer 24-hour camps.²¹ DCF is currently preparing the Notice of Rule Development and will schedule public workshops to solicit input on the proposed language. The rules will, among other things, require summer programs to register with DCF through the web portal. This will enable the web portal to become the foundation for a comprehensive listing of summer camp programs in Florida, which will improve DCF’s ability to track the programs to ensure they are completing background screening for employees and volunteers.²²

DCF Licensure Authority

The department licenses child-placing agencies, family foster homes, and residential child-caring facilities under ch. 409, F.S.²³ In addition, DCF licenses child care facilities in all but five counties²⁴ of the state under ch.402, F.S. In these five counties, local governments issue the child care licenses and are responsible for the licensing reviews pursuant to s. 402.306, F.S. Licensing reviews include at least two face-to-face visits annually. Section 402.308(3) requires annual relicensing and review, but DCF requires a more frequent inspection. Child care licensees pay fees for licensing. This fee, set forth in s. 402.315, F.S., is \$1.00 per year per child, with a minimum of \$25.00 and a maximum of \$100 annually per center.

Florida law expressly prohibits the department from licensing summer day camps or summer 24-hour camps, but does allow DCF access to the personnel records of these facilities to ensure that background screening requirements have been met. Under current law, summer day camps and summer 24-hour camps are not licensed by DCF or by any other regulatory body or agency.²⁵

In March 2012, the *Palm Beach Post* published a series of articles related to the harm that has occurred to children as a result of attending unlicensed summer camps where employees were either not screened or improperly screened. One article in the series reported the following:²⁶

- Florida camps are completely unregulated. Nobody knows how many operate here. Nobody checks up on the people who run them.

²⁰ *Id.*

²¹ Section 409.175(5)(a), F.S.

²² Department of Children and Families. *Staff Analysis and Economic Impact. SB 630.* (Feb. 11, 2013).

²³ Section 409.175, F.S.

²⁴ Those counties are Broward, Hillsborough, Palm Beach, Pinellas and Sarasota.

²⁵ Section 409.175(6)(k), F.S.

²⁶ Michael LaForgia. The Palm Beach Post. *Weak laws pave way for child sexual abuse.*(Mar. 4, 2012), available at <http://www.palmbeachpost.com/news/news/state-regional/weak-laws-pave-way-for-child-sexual-abuse-2/nLhPP/> (last visited Feb. 27, 2013).

- Florida is one of six states that don't license camps in some form. Its population of 19 million dwarfs the others on the list: North Carolina, Washington, Missouri, New Mexico and South Dakota.
- The state's system of safeguarding kids in child-care centers relies on licensing. State regulators inspect day cares and other licensed businesses to ensure employees are thoroughly screened. There are no such requirements for camps.
- Children are harmed regularly in Florida summer camps. Since 2000, at least 50 children have been victimized in summer programs, or abused by workers the kids first encountered at camp organizations. Because child sexual abuse often goes unreported - one estimate puts the reporting rate at one in 20 cases - that figure likely under-represents the number of victims statewide.
- All 50 states consider child molesters and other sex offenders so dangerous that the government tracks their movements, but nothing stops them from working in Florida camps. More than a few got jobs in summer programs.
- In scores of other cases, rapists, murderers and other violent criminals have led organizations that often run camps. Roughly 170 church or neighborhood youth programs have been operated by felons statewide, including more than two dozen businesses led by child molesters or other sex offenders.
- The groups are disproportionately clustered around the state's poorest neighborhoods.

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 409.175, F.S., to add summer day camps and summer 24-hour camps to the entities that are required to be licensed by the department and makes conforming changes to reflect the addition of those camps.

Section 2 of the bill creates an unnumbered section of the Florida Statutes, that does the following:

- States that the purpose of the section is to protect all children attending summer day camps and summer 24-hour camps by establishing registration and screening requirements;
- Requires all owners, operators, employees, and volunteers to be screened using level 2 standards in ch. 435, F.S.;
- Requires an application for a license to be made on forms provided by and in a manner prescribed by the department and requires the department to determine the good moral character of an applicant;
- Requires camps to allow the department access to inspect facilities and personnel records;
- Provides sanctions for camps, who fail to dismiss unqualified personnel;
- Creates criminal penalties for certain offenses related to failure to register or misrepresentation of registration; and
- Provides the department with rulemaking authority.

Section 3 of the bill provides an effective date of July 1, 2013.

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:

The department reports that SB 630 would impact all summer day camps and 24-hour summer camps. Camps may incur costs in order to meet the health and safety standards; such as, staff to child ratios, square footage requirements and meeting current fire safety codes. Specific costs cannot be determined as it will be dependent upon the standards developed by the department as well as the physical environment, size and location of the summer camp or summer 24-hour camp.²⁷

C. Government Sector Impact:

The department reports the following fiscal impact to the agency:²⁸

Fiscal Impact	Fiscal Year 2013-14	
	DCF	Total
Licensure Requirement		
Update licensing system		\$20,000
IT Equipment		\$597,076
Expenses		\$325,169
Licensing staff	287	\$18,468,729
Background screening staff	52	\$2,722,033
Registration Requirement		
Create application database		\$80,000
IT costs and maintenance		\$20,000
Training		\$985

²⁷ Department of Children and Families. *Staff Analysis and Economic Impact. SB 630.* (Feb. 11, 2013)

²⁸ *Id.*

Registration Requirement		
Rule development		\$3,000
Quality control staff	7	\$536,268
Background screening staff	52	\$2,722,033
Total		\$25,495,293

It is unclear whether the 52 additional FTEs required for background screening for licensure can also handle the workload for the registration requirement or whether an additional 52 FTEs are needed for registration. If the 52 FTEs are sufficient for both the licensure and registration processes, then the total fiscal impact of the bill would be \$22,773,260.

The department also reports that the five local licensing counties will incur costs based on the assumption that these counties will promulgate ordinances that meet or exceed those of the state, will identify and notify potential summer camp and 24-hour camp programs, and will hire, train and equip staff to license, register,²⁹ and regulate summer camps.

VI. Technical Deficiencies:

On lines 22 and 23 “summer 24-hour camps, and summer day camps” should read, “summer day camps, and summer 24-hour camps” for consistency.

The bill requires licensure of summer day camps and summer 24-hour camps under ch. 409, F.S., and also creates a new unnumbered section of the Florida Statutes. This makes it unclear as to whether the newly required registration requirement will be placed under ch. 402 or ch. 409, F.S.:

- Summer camps appear to be more similar to child care facilities licensed pursuant to ss. 402.301 – 402.319, F.S., than they are to the child placing and caring agencies and family foster homes licensed under s. 409.175, F.S. Provisions relating to the licensure of summer day camps and summer 24-hour day camps may be more appropriately placed in ch. 402, F.S.
- If the department is going to license camps under ch. 409, F.S., as the bill provides, then it may be more appropriate to also place the registration requirements under ch. 409.
- If the licensure requirements are placed in ch. 409, F.S., then the references to ch. 402, F.S., in section 2 of the bill may be incorrect.

The provisions of the bill relating to use and sharing of information obtained as a result of screening should mirror those under ch. 435, F.S.

The bill provides:

- A first violation of ... subparagraph (a)3. is a misdemeanor of the first degree...;
- A second violation ... of subparagraph (a)3., is a felony of the third degree ...; and
- A violation of subparagraph (a)3. is a felony of the third degree.

²⁹ Department of Children and Families. *Staff Analysis and Economic Impact. SB 630.* (March 5, 2013)

These provisions appear to be conflicting.

VII. Related Issues:

The bill does not address licensure or background screening for those camps that operate during times of year other than the summer.

The bill considers all owners, operators, employees, and volunteers connected with camps to be “summer camp personnel” as defined in s. 402.302, F.S. There is no definition of the term “summer camp personnel” in that section. The bill also requires all of these individuals to be screened using level 2 standards in ch. 435, F.S. Current law exempts volunteers who assist on an intermittent basis for less than 10 hours per month if a person who meets the screening requirement is always present and has the volunteer in his or her line of sight.

The bill appears to provide for suspension, restriction, or limitation for camp registrations but doesn’t specify what those actions might entail.

The bill appears to create a new crime for bodily harm, permanent disfigurement, permanent disability or death of a child as the result of an intentional act or negligence, that occurs in conjunction with misrepresentation of registration. Since bodily harm, permanent disfigurement, permanent disability or death of a child as the result of an intentional act or negligence are already crimes, the intent of this provision is unclear.

VIII. Additional Information:

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

CS by Children, Families, and Elder Affairs on March 12, 2013:

The bill creates an unnumbered section of the Florida Statutes, that does the following:

- States that the purpose of the section is to protect all children attending summer day camps and summer 24-hour camps by establishing registration and screening requirements;
- Requires all owners, operators, employees, and volunteers to be screened using level 2 standards in ch. 435, F.S.;
- Requires an application for a license to be made on forms provided by and in a manner prescribed by the department and requires the department to determine the good moral character of an applicant;
- Requires camps to allow the department access to inspect facilities and personnel records;
- Provides sanctions for camps, who fail to dismiss unqualified personnel;
- Creates criminal penalties for certain offenses related to failure to register or misrepresentation of registration; and
- Provides the department with rulemaking authority.

B. Amendments:

None.

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



346830

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/13/2013	.	
	.	
	.	
	.	

The Committee on Children, Families, and Elder Affairs (Clemens) recommended the following:

Senate Amendment (with title amendment)

Delete lines 103 - 160
and insert:

Section 2. Registration of summer camps.-

(1) The intent and purpose of this section is to protect all children attending summer day camps or summer 24-hour camps by establishing registration and screening requirements for such camps and providing procedures to determine adherence to these requirements.

(a) All owners, operators, employees, and volunteers who have any contact with children in a summer day camp or summer



13 24-hour camp are considered "summer camp personnel" as defined
14 in s. 402.302, Florida Statutes. All such persons must be
15 screened using the level 2 standards in chapter 435, Florida
16 Statutes.

17 (b) Registration means a document issued by the Department
18 of Children and Families certifying an applicant meets the
19 requirements in statute and rule to operate a summer day camp or
20 summer 24-hour camp. A registration under this section is issued
21 to a summer day camp or summer 24-hour camp and is not a
22 professional license of any person. Receipt of a registration
23 under this section does not create a property right in the
24 recipient. A registration under this section is a public trust
25 and a privilege and is not an entitlement. In an administrative
26 proceeding, the department must produce competent substantial
27 evidence to support its stated reasons for denying a
28 registration or for sanctioning an existing registration.

29 (2) An application for registration shall be made on forms
30 provided and in the manner prescribed by the department. The
31 department shall determine the good moral character of the
32 applicant based on the screening requirements provided in s.
33 402.302, Florida Statutes.

34 (3) (a) Failure on the part of an owner or operator of a
35 summer day camp or summer 24-hour camp, after written
36 notification, to dismiss personnel who have been found not to be
37 in compliance with the requirements for good moral character of
38 personnel shall constitute an immediate serious danger to the
39 public health, safety, or welfare to support an emergency
40 suspension, restriction, or limitation of an existing
41 registration under s. 120.60, Florida Statutes.



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42 (b) The department may adopt rules relating to the
43 registration and screening requirements for summer day camps and
44 summer 24-hour camps.

45 (c) The department shall have access to the personnel
46 records of summer day camps and summer 24-hour camps to ensure
47 compliance with registration and screening requirements.

48 (4) If the department finds that a person or entity, after
49 written notification of the registration requirement, continues
50 to operate a summer day camp or summer 24-hour camp without a
51 registration, the department shall notify the appropriate state
52 attorney of the violation of 420.319, Florida Statutes.

53 (5) A summer day camp or summer 24-hour camp shall accord
54 to the department the privilege of inspection, including access
55 to facilities and personnel and to those records required
56 pursuant to s. 402.305, Florida Statutes, at reasonable times
57 during regular business hours. The right of entry and inspection
58 shall also extend to any premises that the department has reason
59 to believe are being operated or maintained as part of the
60 summer day camp or summer 24-hour camp, but no such entry or
61 inspection of any premises shall be made without the permission
62 of the person in charge thereof unless a warrant is first
63 obtained from the circuit court authorizing same. Any
64 application for registration or renewal of registration made
65 pursuant to this act or the advertisement to the public for
66 provision of a summer day camp or a summer 24-hour camp
67 constitutes permission for any entry or inspection of the summer
68 day camp or summer 24-hour camp for which the registration is
69 sought in order to facilitate verification of the information
70 submitted on or in connection with the registration application.



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71 In the event a summer day camp or summer 24-hour camp refuses
72 permission for entry or inspection to the department, a warrant
73 shall be obtained from the circuit court authorizing the same
74 prior to such entry or inspection. The department may institute
75 disciplinary proceedings pursuant to s. 402.310, Florida
76 Statutes, for such refusal.

77 (6) A summer day camp or summer 24-hour camp may not
78 advertise without including within such advertisement the
79 registration number of such summer day camp or summer 24-hour
80 camp.

81 (7) It is a misdemeanor of the first degree, punishable as
82 provided in s. 775.082 or s. 775.083, Florida Statutes, for any
83 person to knowingly:

84 (a) Operate or attempt to operate a summer day camp or
85 summer 24-hour camp without registering with the department.

86 (b) Operate or attempt to operate a summer day camp or
87 summer 24-hour camp under a registration that is suspended,
88 revoked, or terminated.

89 (c) Misrepresent, by act or omission, a summer day camp or
90 summer 24 hour camp, to be duly registered pursuant to this
91 section without being so registered.

92 (d) Make any other misrepresentation, by act or omission,
93 regarding the registration or operation of a summer day camp or
94 summer 24-hour camp to a parent or guardian who has a child
95 placed in the summer day camp or summer 24-hour camp or is
96 inquiring as to placing a child in the summer day camp or summer
97 24-hour camp, to a representative of the department, or to a
98 representative of a law enforcement agency, including, but not
99 limited to, any misrepresentation as to whether the summer day



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100 camp or summer 24-hour camp complies with the screening
101 requirements of s. 402.302, Florida Statutes.

102 (8) If any summer camp personnel makes any
103 misrepresentation in violation of this section to a parent or
104 guardian who has placed a children in the summer day camp or
105 summer 24-hour camp and the parent or guardian relied upon the
106 misrepresentation, and the child suffers great bodily harm,
107 permanent disfigurement, permanent disability, or death as a
108 result of an intentional act or negligence by the summer camp
109 personnel, the summer camp personnel commits a felony of the
110 second degree, punishable as provided in s. 775.082, s. 775.083,
111 or s. 775.084, Florida Statutes.

112 (9) When the department has reasonable cause to believe
113 that grounds for denial or termination of employment exist, it
114 shall notify, in writing, the applicant, or owner and operator
115 of the summer day camp or summer 24-hour camp, and the personnel
116 affected, stating the specific record which indicates
117 noncompliance with the screening requirements. Procedures
118 established for hearing under chapter 120, Florida Statutes,
119 shall be available to the applicant, owner and operator, and
120 affected personnel, in order to present evidence relating either
121 to the accuracy of the basis for exclusion or to the denial of
122 an exemption from disqualification.

123 (10) (a) If a summer day camp or summer 24-hour camp has
124 failed to take preventive or corrective measures in accordance
125 with any order of the department to maintain conformity with the
126 registration requirements, or if there is a violation of any of
127 the provisions of any registration requirement pursuant to this
128 act, which violation threatens harm to any child or which



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129 constitutes an emergency requiring immediate action, the
130 department may institute injunctive proceedings in a court of
131 competent jurisdiction to terminate the operation of the summer
132 day camp or summer 24-hour camp providing care for children when
133 such camp has willfully and knowingly refused to comply with the
134 screening requirements for personnel or has refused to terminate
135 the employment of personnel found to be in noncompliance with
136 the registration requirements.

137 (b) If the department finds, within 30 days after written
138 notification by registered mail of the requirement for
139 registration or of the violation of screening requirements, that
140 a summer day camp or summer 24-hour camp continues to provide
141 care for children without complying, the department shall notify
142 the appropriate state attorney of the violation of law and, if
143 necessary shall institute a civil suit to enjoin the summer day
144 camp or summer 24-hour camp from continuing the care of
145 children.

146 (11) (a) It is unlawful for any summer day camp or summer
147 24-hour camp providing care for children to:

148 1. Willfully or intentionally fail to comply with the
149 requirements for the screening of personnel or the dismissal of
150 personnel found to not be in compliance with chapter 435,
151 Florida Statutes.

152 2. Use information from the criminal records obtained under
153 this section for any purpose other than screening a person for
154 employment as specified in this section or to release such
155 information to any other person for any purpose other than
156 screening for employment as specified in this section.

157 3. Use information from the juvenile records of any person



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158 obtained under this section for any purpose other than screening
159 for employment as specified in this section or to release
160 information from such records to any other person for any
161 purpose other than screening for employment as specified in this
162 section.

163 (b)1. A first violation of subparagraph (a)1., subparagraph
164 (a)2., or subparagraph (a)3. is a misdemeanor of the first
165 degree, punishable as provided in s. 775.082 or s. 775.083,
166 Florida Statutes.

167 2. A second violation of subparagraph (a)1., subparagraph
168 (a)2., or subparagraph (a)3., is a felony of the third degree,
169 punishable as provided in s. 775.082 or s. 775.083, Florida
170 Statutes.

171 3. A violation of subparagraph (a)3. is a felony of the
172 third degree, punishable as provided in s. 775.082, s. 775.083,
173 or s. 775.084, Florida Statutes.

174 Section 3. This act shall take effect July 1, 2013.

175
176 ===== T I T L E A M E N D M E N T =====

177 And the title is amended as follows:

178 Delete lines 5 - 13

179 and insert:

180
181 providing duties of the department; providing
182 legislative intent for children in the state who
183 attend summer day camps or summer 24-hour camps;
184 requiring specified persons coming into contact with
185 children to be screened; requiring summer day camps
186 and summer 24-hour camps to register with the



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187 department; providing registration and screening
188 requirements for summer camp personal; requiring a
189 camp to dismiss personnel who are not of good moral
190 character; authorizing the department to adopt rules
191 relating to registration and screening; requiring the
192 department to notify the appropriate state attorney of
193 a violation of the registration requirement; requiring
194 camps to allow the department access to personnel and
195 facilities; providing for the necessity of a warrant
196 in certain circumstances; authorizing the department
197 to institute disciplinary proceedings; requiring the
198 camp to display its registration on any advertisement;
199 providing criminal penalties; providing for
200 termination of employment of summer camp personnel;
201 providing for termination of the operation of a summer
202 day camp or summer 24-hour camp; providing for civil
203 relief and criminal penalties; providing an

By Senator Clemens

27-00404A-13

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A bill to be entitled

An act relating to regulation of summer camps; amending s. 409.175, F.S.; providing that Department of Children and Families license requirements apply to summer day camps and summer 24-hour camps; creating s. 409.1756, F.S.; providing purpose; prohibiting a governmental agency from regulating the religious curriculum of a summer day camp or summer 24-hour camp; providing an exception; providing definitions; providing procedure for application for a license to operate a summer day camp or summer 24-hour camp; providing screening requirements for camp personnel; providing duties of the department; providing an effective date.

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

Section 1. Paragraph (d) of subsection (4), paragraph (a) of subsection (5), and paragraphs (d) and (k) of subsection (6) of section 409.175, Florida Statutes, are amended to read:

409.175 Licensure of family foster homes, residential child-caring agencies, ~~and~~ child-placing agencies, summer 24-hour camps, and summer day camps; public records exemption.-

(4)

(d) This license requirement does not apply to boarding schools, ~~recreation and summer camps~~, nursing homes, or hospitals, ~~or~~ to persons who care for children of friends or neighbors in their homes for periods not to exceed 90 days, or to persons who have received a child for adoption from a

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

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licensed child-placing agency.

(5) (a) The department shall adopt and amend licensing rules for family foster homes, residential child-caring agencies, ~~and~~ child-placing agencies, ~~and~~. ~~The department may also adopt rules relating to the screening requirements for~~ summer day camps and summer 24-hour camps. The requirements for licensure and operation of family foster homes, residential child-caring agencies, ~~and~~ child-placing agencies, summer day camps, and summer 24-hour camps shall include:

1. The operation, conduct, and maintenance of these homes and agencies and the responsibility which they assume for children served and the evidence of need for that service.

2. The provision of food, clothing, educational opportunities, services, equipment, and individual supplies to assure the healthy physical, emotional, and mental development of the children served.

3. The appropriateness, safety, cleanliness, and general adequacy of the premises, including fire prevention and health standards, to provide for the physical comfort, care, and well-being of the children served.

4. The ratio of staff to children required to provide adequate care and supervision of the children served and, in the case of foster homes, the maximum number of children in the home.

5. The good moral character based upon screening, education, training, and experience requirements for personnel.

6. The department may grant exemptions from disqualification from working with children or the developmentally disabled as provided in s. 435.07.

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

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59 7. The provision of preservice and inservice training for
60 all foster parents and agency staff.

61 8. Satisfactory evidence of financial ability to provide
62 care for the children in compliance with licensing requirements.

63 9. The maintenance by the agency of records pertaining to
64 admission, progress, health, and discharge of children served,
65 including written case plans and reports to the department.

66 10. The provision for parental involvement to encourage
67 preservation and strengthening of a child's relationship with
68 the family.

69 11. The transportation safety of children served.

70 12. The provisions for safeguarding the cultural,
71 religious, and ethnic values of a child.

72 13. Provisions to safeguard the legal rights of children
73 served.

74 (6)

75 (d)1. The department may pursue other remedies provided in
76 this section in addition to denial or revocation of a license
77 for failure to comply with the screening requirements. The
78 disciplinary actions determination to be made by the department
79 and the procedure for hearing for applicants and licensees shall
80 be in accordance with chapter 120.

81 2. When the department has reasonable cause to believe that
82 grounds for denial or termination of employment exist, it shall
83 notify, in writing, the applicant ~~or~~ licensee, ~~or summer or~~
84 ~~recreation camp~~, and the personnel affected, stating the
85 specific record which indicates noncompliance with the screening
86 requirements.

87 3. Procedures established for hearing under chapter 120

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88 shall be available to the applicant ~~or~~ licensee, ~~summer day~~
89 ~~camp, or summer 24-hour camp~~, and affected personnel, in order
90 to present evidence relating either to the accuracy of the basis
91 for exclusion or to the denial of an exemption from
92 disqualification.

93 4. Refusal on the part of an applicant to dismiss personnel
94 who have been found not to be in compliance with the
95 requirements for good moral character of personnel shall result
96 in automatic denial or revocation of license in addition to any
97 other remedies provided in this section which may be pursued by
98 the department.

99 (k) The department ~~shall may not~~ license summer day camps
100 ~~and or~~ summer 24-hour camps ~~and~~. ~~However, the department~~ shall
101 have access to the personnel records of such camps facilities to
102 ensure compliance with the screening requirements.

103 Section 2. Section 409.1756, Florida Statutes, is created
104 to read:

105 409.1756 Licensure of summer camps.-

106 (1) (a) The purpose of this section is to protect the
107 health, safety, and well-being of all children in the state who
108 attend summer day camps or summer 24-hour camps by providing for
109 the establishment of licensing and screening requirements for
110 such camps and providing procedures to determine adherence to
111 these requirements.

112 (b) This section does not authorize any governmental agency
113 jurisdiction or authority to regulate, control, or supervise the
114 form, manner, or content of any religious curriculum or
115 teachings of a summer day camp or summer 24-hour camp unless the
116 health, safety, or well-being of the child is adversely

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117 affected.

118 (2) As used in this section, the term:

119 (a) "License" means a license as defined in s. 120.52(10).

120 A license under this section is issued to a summer day camp or
 121 summer 24-hour camp and is not a professional license of any
 122 individual. Receipt of a license under this section does not
 123 create a property right in the recipient. A license under this
 124 section is a public trust and a privilege and is not an
 125 entitlement. This privilege must guide the finder of fact or
 126 trier of law at any administrative proceeding or court action
 127 initiated by the department.

128 (b) "Operator" means any onsite person ultimately
 129 responsible for the overall operation of a summer day camp or
 130 summer 24-hour camp, regardless of whether the operator is the
 131 owner or administrator of such a camp.

132 (c) "Owner" means the person who is licensed to operate the
 133 summer day camp or summer 24-hour camp.

134 (d) "Personnel" means all owners, operators, employees, and
 135 volunteers working in a summer day camp or summer 24-hour camp
 136 who may be employed by or do volunteer work for a person,
 137 corporation, or agency that holds a license to operate a summer
 138 day camp or summer 24-hour camp. For purposes of screening, the
 139 term does not include a volunteer who assists on an intermittent
 140 basis for less than 10 hours per month, if a person who meets
 141 the screening requirement of this section is always present and
 142 has the volunteer in his or her line of sight.

143 (e) "Screening" means the act of assessing the background
 144 of personnel and includes, but is not limited to, employment
 145 history checks as provided in chapter 435 using the level 2

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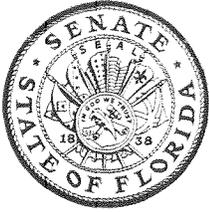
146 standards for screening set forth in that chapter.

147 (f) "Summer day camp" means recreational, educational, and
 148 other enrichment programs operated during summer vacations for
 149 children who are 5 years of age or older on or before September
 150 1.

151 (g) "Summer 24-hour camp" means recreational, educational,
 152 and other enrichment programs that are not exclusively
 153 educational that are operated on a 24-hour basis during summer
 154 vacation for children who are 5 years of age or older on or
 155 before September 1.

156 (3) An application for a license shall be made on forms
 157 provided, and in the manner prescribed, by the department. The
 158 department shall determine the good moral character of the
 159 applicant based upon the screening requirements provided in s.
 160 409.175(5)(a).

161 Section 3. This act shall take effect July 1, 2013.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Banking and Insurance, *Vice Chair*
Appropriations Subcommittee on Criminal and
Civil Justice
Appropriations Subcommittee on Finance and Tax
Children, Families, and Elder Affairs
Ethics and Elections
Gaming
Transportation

SENATOR JEFF CLEMENS

27th District

February 5, 2013

Chair Eleanor Sobel
520 Knott
404 S. Monroe St
Tallahassee, FL 32399

RECEIVED

FEB 12 2013

Senate Committee
Children and Families

Dear Chair Sobel:

I respectfully request that SB 630, An Act Relating to Regulated of Summer Camps, be placed on the agenda for Children, Families and Elder Affairs Committee.

Please feel free to contact myself or my staff, should you have any questions.

Best Regards,

A handwritten signature in black ink, appearing to read "Jeff Clemens".

Jeff Clemens
Senate District 27

Cc: Claude Hendon

REPLY TO:

- 508 Lake Avenue, Unit C, Lake Worth, Florida 33460 (561) 540-1140 FAX: (561) 540-1143
- 226 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5027

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic Summer Camp

Bill Number SB 630

Name JACK CORY

Amendment Barcode 346930
(if applicable)

Job Title _____

Address 110 E. Collins Ave

Phone 856 893 0997

Tallahassee FL 32301
City State Zip

E-mail JACKCORY@PARANSLT.MR

Speaking: For Against Information

Representing Boys & Girls Club

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)

3/12/13
Meeting Date

Topic CAMPS

Bill Number 630

Name RAMON MAURY

Amendment Barcode _____
(if applicable)

Job Title SR. PARTNER

Address PO Box 10245

Phone 850 222 1588

TALL FL 32301
City State Zip

E-mail mmgray@aol

Speaking: For Against Information

Representing AANR-F

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 Committee on Children, Families, and Elder Affairs

BILL: CS/SB 748

INTRODUCER: Children, Families, and Elder Affairs Committee; Senators Bean and Gibson

SUBJECT: Program for All-inclusive Care for the Elderly

DATE: March 12, 2013 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Peterson	Hendon	CF	Fav/CS
2.			HP	
3.				
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

CS/SB 748 authorizes two additional Program of All-inclusive Care for the Elderly (PACE) sites, each with up to 300 slots. One site is authorized to serve Duval, St. Johns, Baker, and Nassau counties. The second is authorized to serve Alachua, Bradford, Clay, Columbia, Dixie, Gilchrist, Hamilton, Lafayette, Levy, Putnam, Suwannee, and Union counties.

This bill will have a significant fiscal impact on the state and provides an effective date of July 1, 2013.

This bill creates two undesignated sections of the Florida Statutes.

II. Present Situation:

Program of All-Inclusive Care for the Elderly (PACE)

PACE is a capitated benefit model authorized by the federal Balanced Budget Act of 1997 (BBA) that features a comprehensive service delivery system and integrated federal Medicare and state Medicaid financing. The model, which was tested through Centers for Medicaid and

Medicare (CMS) demonstration projects beginning in the mid-1980s,¹ was developed to address the needs of long-term care clients, providers, and payers.

A PACE organization is a not-for-profit, private or public entity that is primarily engaged in providing PACE services and must:

- Have a governing board that includes community representation;
- Be able to provide the complete service package regardless of frequency or duration of services;
- Have a physical site to provide adult day services;
- Have a defined service area;
- Have safeguards against conflicts of interest;
- Have a demonstrated fiscal soundness; and
- Have a formal participant bill of rights.

PACE participants must be at least 55 years old, live in the PACE service area, and be certified eligible for nursing home care, but able to live safely in the community. The PACE program becomes the sole source of services for these Medicare and Medicaid eligible enrollees.

Under the PACE program, an interdisciplinary team consisting of professional and paraprofessional staff assesses participants' needs, develops care plans, and delivers all services, including acute care and nursing facility services when necessary, which are integrated to provide a seamless delivery model. A PACE program provides social and medical services primarily in an adult day health center, which are supplemented by in-home and referral services as necessary. The PACE service package must include all Medicare and Medicaid covered services, and other services determined necessary by the multidisciplinary team for the care of the PACE participant.

The BBA established the PACE model of care as a permanent entity within the Medicare program and enabled states to provide the PACE services to Medicaid beneficiaries as an optional state plan service without a Medicaid waiver. The state plan must include PACE as an optional Medicaid benefit before the state and the Secretary of the Department of Health and Human Services can enter into program agreements with PACE providers.

The PACE project is a unique federal/state partnership. The federal government establishes the PACE organization requirements and application process. The state Medicaid agency or other state agency is responsible for oversight of the entire application process, which includes reviewing the initial application and providing an on-site readiness review before a PACE organization can be authorized to serve patients. An approved PACE organization must sign a contract with CMS and the state Medicaid agency. Rates for PACE providers are developed based on a county level actuarial analysis of the costs associated with the service population.

¹CMS Manual available at <http://www.cms.gov/Medicare/Health-Plans/pace/downloads/r1so.pdf> (last visited Feb. 7, 2013)

Florida PACE Project

The Florida PACE project was initially authorized in ch. 98-327, Laws of Florida and is codified in s. 430.707(2), F.S., under the administration of the Department of Elder Affairs (DOEA), operating in consultation with the Agency for Health Care Administration (AHCA).² The initial program was located in Miami-Dade County and began serving enrollees in February 2003 with a total of 150 slots. Since then, the Legislature has approved additional slots either as part of the General Appropriations Act or general law.

The 2006 General Appropriations Act contained proviso language authorizing an additional 150 slots in the Miami-Dade County program and 200 slots each at new programs in Martin/St. Lucie Counties, and Lee County.³ In 2008, the Legislature reallocated equally 150 unused PACE slots to Miami-Dade, Lee, and Pinellas Counties.⁴ The 2010 General Appropriations Act funded an additional 100 slots in Pinellas County and authorized and funded a new program with 100 slots in Hillsborough County.⁵ That same year, the Legislature, by general law, authorized an additional 50 slots in Miami-Dade and 150 slots for a program serving Polk, Hardee, Highlands, and Hillsborough Counties.⁶ In 2011, the Legislature authorized a program with 150 slots in Palm Beach County,⁷ and funded, through the General Appropriations Act, 50 additional slots in Lee County and 150 slots for a program serving Polk, Hardee, and Highlands Counties.⁸ In 2012, the Legislature authorized two new programs of up to 150 slots each for a program in Broward County and a program serving Manatee, Sarasota, and DeSoto Counties.⁹ The 2012 – 2013 General Appropriations Act funded 100 additional slots in Miami-Dade and 150 additional slots in Lee County.¹⁰

Not all authorized PACE slots are currently in operation, and not all slots that have been authorized are currently funded. According to DOEA, of the 2,225 slots the Legislature has authorized since 2003, 1075 are funded and operational; 250 are funded and will be operational in 2012, and 450 are not funded or operational.¹¹ The Legislature appropriated \$26,578,951 for PACE in the 2012 General Appropriations Act.¹²

An entity that seeks to become a PACE provider must submit a comprehensive PACE application to AHCA which sets forth details about the adult day health care center, staffing, provider network, financial solvency and pro forma financial projections, and policies and procedures, among other elements. The application is similar in detail level to the provider applications submitted by managed care plans seeking to provide medical care to Medicaid

² Chapter 2011-135, s. 24, L.O.F., repeals s. 430.707, F.S., effective Oct 1, 2013, as part of the expansion of Medicaid managed care.

³ Chapter 2006-25, L.O.F.

⁴ Chapter 2008-152, L.O.F.

⁵ Chapter 2010-152, L.O.F.

⁶ Chapter 2010-156, ss. 14, 15, L.O.F.

⁷ Chapter 2011-61, s. 17, L.O.F.

⁸ Chapter 2011-69, L.O.F.

⁹ Chapter 2012-33, ss. 18, 19, L.O.F.

¹⁰ Ch. 2012-118, L.O.F.

¹¹ E-mail from Marcy R. Hajdukiewicz, Division Director, Statewide Community Based Services, Florida Department of Elder Affairs, (Feb. 28, 2013) (on file with the Senate Children, Families, and Elder Affairs Committee).

¹² Chapter 2012-118, L.O.F..

recipients. Providers operating in the same geographic region must establish that there is adequate demand for services that each provider will be viable. The application requires that documentation be submitted demonstrating that neither provider is competing for the same potential enrollees.

AHCA and DOEA review the application and, when the entity has satisfied all requirements, conduct an on-site survey of the entity's readiness to serve PACE enrollees. Once all requirements are met, including full licensure of the center, staffing for key positions, and signed provider network contracts, AHCA certifies to CMS that the PACE site is ready. At that time, CMS reviews the application and readiness certification and, if all requirements are satisfied, executes a three-way agreement with the PACE provider and AHCA. The PACE provider may then begin enrolling members, subject to an appropriation to fund the slots. In total, the process to become a PACE provider and begin serving enrollees typically takes at least one year.¹³

In 2011, the Legislature moved administrative responsibility for the PACE program from DOEA to AHCA as part of the expansion of Medicaid managed care.¹⁴ Participation by PACE is not subject to the procurement requirements or regional plan number limits now applicable to the Medicaid program. Instead, PACE plans may continue to provide services to individuals at such levels and enrollment caps as authorized by the General Appropriations Act.¹⁵

Medicaid

Medicaid is the health care safety net for low-income Floridians. Medicaid serves approximately 3.3 million people in Florida, with over half of those being children and adolescents 20 years of age or younger. Medicaid is a partnership between the federal and state governments where the federal government establishes the structure for the program and pays a share of the cost. Each state operates its own Medicaid program under a state plan that must be approved by the federal Centers for Medicare and Medicaid Services or CMS. The plan outlines current Medicaid eligibility standards, policies and reimbursement methodologies.

In Florida, the program is administered by the Agency for Health Care Administration (AHCA). AHCA delegates certain functions to other state agencies, including the Department of Children and Families, the Agency for Persons with Disabilities, and the Department of Elder Affairs. AHCA has overall responsibility for the program and qualifies providers, set payment levels, and pays for services. The Department of Children and Families is responsible for determining financial eligibility for Medicaid recipients. The Agency for Persons with Disabilities operates one of the larger waiver programs under Medicaid, the Home and Community Based Waiver program serving individuals with disabilities. The DOE assesses Medicaid recipients to determine if they require nursing home care. Specifically, DOEA determines whether an individual:

¹³ Agency for Health Care Administration, *Senate Bill 748 Bill Analysis & Economic Impact Statement* (Received Mar. 9, 2013) (on file with the Senate Committee on Children, Families, and Elder Affairs).

¹⁴ Chapter 2011-135, s. 24, Laws of Fla, repeals Section 430.707, F.S., effective Oct. 1, 2013.

¹⁵ Section 409.981(4), F.S.

- Requires nursing home placement as evidenced by the need for medical observation throughout a 24 hour period and requires care to be performed on a daily basis under the direct supervision of a health professional of medically complex services because of mental or physical incapacitation; or
- Requires or is at imminent risk of nursing home placement as evidenced by the need for observation throughout a 24 hour period and requires care to be performed on a daily basis under the supervision of a health professional because of mental or physical incapacitation; or
- Requires or is at imminent risk of nursing home placement as evidenced by the need for observation throughout a 24 hour period and requires limited care to be performed on a daily basis under the supervision of a health professional because of mild mental or physical incapacitation.

The February 25, 2013 Social Services Estimating Conference estimated that expenditures for Medicaid for FY 2012-2013 would be \$20.77 billion. One of the most important and expensive components of Medicaid is long-term care. The conference estimated that \$4.75 billion will be spent on long-term care under Medicaid in FY 2012-2013.

Floridians who need nursing home care, but do not qualify for Medicaid, must pay from their own funds or through insurance. According to the 2011 MetLife Market Survey of Nursing Home, Assisted Living, Adult Day Services, and Home Care Costs, the national average cost of a nursing home was \$78,110 per year for a semi-private room in 2011. Persons needing nursing home care are determined to be eligible for Medicaid based on financial assets and monthly income.

Long-Term Managed Care

In 2011, the Legislature passed and the Governor signed into law HB 7107¹⁶ to increase the use of managed care in Medicaid. The law requires both long-term care services and other Medicaid services to be provided through managed care plans. Long-term Care Managed Care component of the law will be implemented first. Implementation of the program began July 1, 2012 with full implementation by October 1, 2013.

AHCA has chosen the plans that may participate in the program through a competitive bid process. AHCA considered many factors when choosing plans. AHCA chose a certain number of long-term care managed care plans for each region to ensure that enrollees in the program to ensure that recipients have a choice between plans. After AHCA has chosen the plans that may participate in the Florida Long-Term Care Managed Care Program, AHCA will begin to notify and transition eligible Medicaid recipients into the program. It is anticipated that the Florida Long-Term Care Managed Program will be available in certain areas of the State beginning the first quarter of 2013 and will be in all areas by October 1, 2013.

Participating managed care plans are required to provide minimum benefits that include nursing home as well as home and community based services. Plans will be free to customize and offer additional services. The minimum benefits include:

¹⁶ Chapter 2011-134, L.O.F.

- Nursing home
- Services provided in assisted living facilities
- Hospice
- Adult day care
- Medical equipment and supplies, including incontinence supplies
- Personal care
- Home accessibility adaptation
- Behavior management
- Home delivered meals
- Case management
- Therapies: physical, respiratory, speech, and occupational
- Intermittent and skilled nursing
- Medication administration
- Medication management
- Nutritional assessment and risk reduction
- Caregiver training
- Respite care
- Transportation
- Personal emergency response system

On February 1, 2013, the Federal Centers for Medicare and Medicaid Services, approved AHCA's request for a Home and Community Based Care Services waiver for individuals 65 and older and individuals with physical disabilities ages 18 through 64 years of age. This approval will allow Florida to implement managed care for long-term care services under Medicaid.

III. Effect of Proposed Changes:

Section 1 directs AHCA to contract with a not-for-profit organization that has been jointly formed by a lead agency that is licensed as a nursing home diversion program provider and by a not-for-profit hospice that has been licensed for more than 30 years to serve residents in Duval, St. Johns, Baker, and Nassau Counties to provide PACE services to frail elders in those counties. The organization is directed to utilize existing community-based care providers and healthcare organizations in the delivery of services. The bill exempts the organization from ch. 641, F.S., relating to health maintenance organizations. The bill authorizes 300 slots, subject to an appropriation.

Section 2 directs AHCA to contract with a hospice with 30 years' experience that currently serves residents in Clay, Alachua, Bradford, and Putnam Counties to provide PACE services to frail elders in Alachua, Bradford, Clay, Columbia, Dixie, Gilchrist, Hamilton, Lafayette, Levy, Putnam, Suwannee, and Union counties. The bill exempts the organization from ch. 641, F.S., relating to health maintenance organizations. The bill authorizes 300 slots, subject to an appropriation.

Section 3 provides an effective date of July 1, 2013.

Other Potential Implications:

The bill expands an existing carve out of long term care services from the Medicaid managed care program. Statewide long term managed care is estimated to serve 85,000 residents who are 18 years or older; whereas, the combined PACE enrollees is under 2,000 and limited to eligible residents who are 55 years of age and older. This bill would be inconsistent with one of the purposes of expanding Medicaid managed care – to standardize the delivery of Medicaid services by eliminating the waivers and carve outs.

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:

Frail elders in need of comprehensive home and community-based long-term care services in Duval, St. Johns, Baker, Nassau, Alachua, Bradford, Clay, Columbia, Dixie, Gilchrist, Hamilton, Lafayette, Levy, Putnam, Suwannee, and Union counties will have additional choices of programs to serve their needs.

The new PACE providers would compete with other providers of long-term care services in those counties who have participated in the competitive procurement process required by Medicaid managed care.

C. Government Sector Impact:

AHCA reviews all new and expansion PACE applications, handles communication with CMS, and participates in all monitoring activities, including all federal and state on-site reviews. AHCA is also responsible for providing technical assistance, as needed. In order to implement the bill, AHCA would need one FTE for Fiscal Year 2013-2014.

The DOEA provides oversight of established PACE sites. The fiscal impact to DOEA would come in FY 2014-2015 as it takes at least a year for the application approval and the readiness certification.

The bill conditions the new PACE site contingent upon an appropriation by the legislature. Typically, PACE slots cost approximately \$25,000 per member per year. The estimated cost of the 300 new PACE program slots authorized in the bill would be \$7.5 million per year for each program, for a total of \$15 million, if an appropriation to cover those expenditures is provided. The PACE slots are intended as an alternative to nursing home care, which is separately funded in the budget. If the funding for nursing home services were to be reduced as a result of the addition of the new PACE slots, then the actual fiscal impact to the state could be less.

Fiscal Impact	Fiscal Year 2013-14		Fiscal Year 2014-2015
	FTE	Total	Total
Application process	1	\$71,128	
Operation of 300 slots			\$15 million
Total	1	\$71,128	\$15 million

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.)

CS by Children, Families, and Elder Affairs on March 12, 2013:

- The bill was amended to add a second PACE program with up to 300 slots that is authorized to serve Alachua, Bradford, Clay, Columbia, Dixie, Gilchrist, Hamilton, Lafayette, Levy, Putnam, Suwannee, and Union counties.

- B. Amendments:

None.



478382

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/13/2013	.	
	.	
	.	
	.	

The Committee on Children, Families, and Elder Affairs (Sobel) recommended the following:

Senate Amendment (with title amendment)

Between lines 35 and 36
insert:

Section 2. Notwithstanding s. 430.707, Florida Statutes, and subject to federal approval of the application to be a site for the Program of All-inclusive Care for the Elderly (PACE), the Agency for Health Care Administration shall contract with one private health care organization with more than 30 years' experience as a licensed hospice provider and currently licensed as a hospice provider to serve individuals and families in Clay, Alachua, Bradford and Putnam Counties. This not-for-profit



478382

13 organization shall provide PACE services to frail elders who
14 reside in Alachua, Bradford, Clay, Columbia, Dixie, Gilchrist,
15 Hamilton, Lafayette, Levy, Putnam, Suwannee, and Union counties.
16 The organization shall be exempt from the requirements of
17 Chapter 641, Florida Statutes. The agency in consultation with
18 the Department of Elderly Affairs and subject to an
19 appropriation, shall approve up to 300 initial enrollees in the
20 Program of All-inclusive Care for the Elderly established by
21 this organization to serve frail elders who reside in Alachua,
22 Bradford, Clay, Columbia, Dixie, Gilchrist, Hamilton, Lafayette,
23 Levy, Putnam, Suwannee, and Union counties.

24
25 ===== T I T L E A M E N D M E N T =====

26 And the title is amended as follows:

27 Delete line 11

28 and insert:

29
30 to participate in the program in the named counties;
31 requiring the Agency for Health Care 3 Administration
32 to contract with a certain organization to provide
33 services under the federal Program of All-inclusive
34 Care for the Elderly in Alachua, Bradford, Clay,
35 Columbia, Dixie, Gilchrist, Hamilton, Lafayette, Levy,
36 Putnam, Suwannee, and Union counties; providing an
37 exemption from ch. 641, Florida Statutes, for the
38 organization; requiring the organization, subject to
39 an appropriation, to enroll a specified number of
40 persons to participate in the program in the named
41 counties;

By Senator Bean

4-00850-13

2013748__

A bill to be entitled

An act relating to the Program of All-inclusive Care for the Elderly; requiring the Agency for Health Care Administration to contract with a certain organization to provide services under the federal Program of All-inclusive Care for the Elderly in Duval, St. Johns, Baker, and Nassau Counties; providing an exemption from ch. 641, Florida Statutes, for the organization; requiring the organization, subject to an appropriation, to enroll a specified number of persons to participate in the program in the named counties; providing an effective date.

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

Section 1. Notwithstanding s. 430.707, Florida Statutes, and subject to federal approval of the application to be a site for the Program of All-inclusive Care for the Elderly (PACE) program, the Agency for Health Care Administration shall contract with a not-for-profit organization that has been jointly formed by a lead agency that has been designated pursuant to s. 430.205, Florida Statutes, and that is licensed as a nursing home diversion program provider, and by a not-for-profit hospice provider that has been licensed for more than 30 years to serve individuals and families in Duval, St. Johns, Baker, and Nassau Counties. The not-for-profit organization shall leverage existing community-based care providers and healthcare organizations to provide PACE services to frail elders who reside in Duval, St. Johns, Baker, and Nassau

Page 1 of 2

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

4-00850-13

2013748__

Counties. The organization is exempt from the requirements of chapter 641, Florida Statutes. The agency, in consultation with the Department of Elderly Affairs, and subject to an appropriation, shall approve up to 300 initial enrollees in the PACE established by this organization to serve frail elders who reside in Duval, St. Johns, Baker, and Nassau Counties.

Section 2. This act shall take effect July 1, 2013.

Page 2 of 2

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Health Policy, *Chair*
Appropriations
Appropriations Subcommittee on Education
Appropriations Subcommittee on Health
and Human Services
Commerce and Tourism
Communications, Energy, and Public Utilities
Governmental Oversight and Accountability

SELECT COMMITTEE:

Select Committee on Patient Protection
and Affordable Care Act

SENATOR AARON BEAN

4th District

March 4, 2013

Honorable Eleanor Sobel
Chair, Children Families & Elder Affairs
410 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairwoman Sobel:

I am writing to respectfully request you consider placing Senate Bill 748, relating to Program of All-inclusive Care for the Elderly (P.A.C.E. program) on the Children Families & Elder Affairs agenda at your earliest convenience.

Thank you in advance for your consideration. As always, please do not hesitate to contact me with any question or comments you, or your staff may have.

Respectfully,

A handwritten signature in cursive script that reads "Aaron Bean".

Aaron Bean
Senator District 4

Cc: Claude Hendon, Staff Director
520 Knott

RECEIVED

MAR 04 2013

Senate Committee
Children and Families

REPLY TO:

302 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5004

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-12-13

Meeting Date

Topic PACE program for NE Florida Bill Number SB 748
Name Teresa K. Barton Amendment Barcode _____
Job Title CEO - Aging True Senior Services
Address 4250 Lakeside Drive #300 Phone 904-807-1240
Jacksonville FL 32210 E-mail tbarton@agingtrue.org
City State Zip

Speaking: For Against Information

Representing Aging True - PACE PARTNERS OF NE Fla

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)

3-12-13

Meeting Date

Topic CARE FOR ELDERLY Bill Number SB 748
Name Susan Ponder - Stansel Amendment Barcode _____
Job Title President & CEO
Address 4266 Sunbeam Rd Phone 904-596-6363
Jacksonville FL 32257 E-mail sstansel@community
City State Zip hospice.com

Speaking: For Against Information

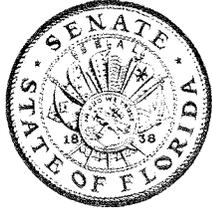
Representing Community Hospice / PACE Partners

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

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Subcommittee on General Government, *Vice Chair*
Community Affairs, *Vice Chair*
Appropriations Subcommittee on Transportation, Tourism, and Economic Development
Children, Families, and Elder Affairs
Commerce and Tourism
Transportation

JOINT COMMITTEE:

Joint Administrative Procedures Committee

SENATOR GERALDINE F. THOMPSON

12th District

March 12, 2013

The Honorable Eleanor Sobel
410 SOB
404 S. Monroe Street
Tallahassee, FL. 32399-1100

Dear Chair Sobel:

Please allow this letter to serve as my formal request to be excused from today's Children, Families, and Elder Affairs Committee meeting. I have fallen ill but hope to return to my legislative duties as soon as possible.

I look forward to serving my constituents and the great people of Florida. Thank you for your consideration.

Respectfully,

Senator Geraldine Thompson
District 12-Orlando

RECEIVED

MAR 12 2013

Senate Committee
Children and Families

cc: Claude Hendon

REPLY TO:

- 511 W. South Street, Suite 204, Orlando, Florida 32805 (407) 245-1511 FAX: (407) 245-1513
- 224 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5012

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

2:32:05 PM Sam Bell - Florida Pediatric Society
2:33:16 PM Charlene Melcher - FL SIDS Alliance
2:36:50 PM Chair Detert
2:37:01 PM Judy Lahnam - FL SIDS Alliance
2:38:52 PM Chair Detert
2:39:04 PM Bunny Hamer - FL SIDS Alliance
2:44:12 PM Dr. Barbara Wolf - District 5 Medical Examiner
2:48:22 PM Chair Detert
2:48:27 PM Sen. Hays closing remarks
2:50:02 PM Chair Detert
2:50:17 PM Roll call on SB 56
2:50:33 PM Sen. Dean
2:51:08 PM Chair Detert passes the chair back to Sen. Hays
2:51:21 PM Chair Hays
2:52:05 PM Presentation: Review of Child Support Guidelines - Dr. Stefan Norrbin - Florida State University
3:12:20 PM Chair Hays passes the chair to Sen. Sobel
3:12:29 PM Chair Sobel
3:12:33 PM Sen. Clemens
3:13:37 PM Dr. Stefan Norrbin responds
3:14:42 PM Sen. Clemens
3:14:50 PM Dr. Norrbin
3:16:07 PM Chair Sobel
3:16:28 PM Dr. Norrbin
3:19:11 PM Chair Sobel
3:19:30 PM Sen. Diaz de la Portilla
3:20:54 PM Dr. Norrbin
3:21:01 PM Sen. Diaz de la Portilla
3:22:42 PM Dr. Norrbin
3:23:13 PM Chair Sobel
3:23:16 PM Sen. Clemens
3:23:24 PM Chair Sobel
3:24:45 PM Dr. Norrbin
3:24:51 PM Sen. Hays
3:25:26 PM Sen. Hays
3:25:36 PM Dr. Norrbin
3:26:02 PM Chair Hays
3:26:15 PM Dr. Norrbin
3:27:45 PM Chair Hays
3:28:20 PM Dr. Norrbin
3:29:34 PM Chair Sobel
3:29:39 PM Sen. Diaz de la Portilla
3:30:04 PM Dr. Norrbin
3:30:37 PM Sen. Diaz de la Portilla
3:32:14 PM Chair Sobel
3:32:48 PM Dr. Norrbin
3:33:08 PM Chair Sobel
3:33:14 PM Dr. Norrbin
3:34:09 PM Chair Sobel
3:34:16 PM Dr. Norrbin
3:35:56 PM Chair Sobel
3:37:06 PM Sen. Hays
3:37:37 PM Chair Sobel
3:37:47 PM Sen. Braynon moves we rise