

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 203 Unaccompanied Youth

SPONSOR(S): Civil Justice Subcommittee; Raulerson and others

TIED BILLS: None **IDEN./SIM. BILLS:** CS/SB 260

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Civil Justice Subcommittee	13 Y, 0 N, As CS	Aziz	Bond
2) Health & Human Services Committee	16 Y, 0 N	Entress	Calamas
3) Judiciary Committee			

SUMMARY ANALYSIS

In general, a minor may not consent to his or her own routine medical and dental care. Florida law requires that a parent or guardian consent to treatment.

The bill changes the term “unaccompanied youth” to “unaccompanied homeless youth” and specifies that an unaccompanied homeless youth, age 16 or over, may consent to medical treatment. The bill specifies that medical treatment includes, dental, psychological, substance abuse, and other medical care by a licensed facility on behalf of himself or herself, or his or her child.

The bill specifies that minors who qualify as unaccompanied homeless youth must be issued a written certificate. The bill allows licensed clinical social workers and circuit courts, in addition to those already named in statute, to issue such certificates.

The bill allows a health care provider to accept the written certificate as proof of the minor’s status as an unaccompanied homeless youth and specifies that the health care provider may keep a copy of the certificate.

The bill specifies that it does not affect the requirements of the "Parental Notice of Abortion Act."

The bill does not appear to have a fiscal impact on state or local governments.

The effective date of the bill is July 1, 2014.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Homelessness

There are roughly 45,000 people facing homelessness in Florida.¹ In the 2011-12 school year, 63,685 school-aged children were identified as homeless at some point during the school year.²

According to the National Alliance to End Homelessness, the prevalence of youth homelessness is difficult to measure; however, researchers estimate that perhaps 1.6 million youth, aged 13-17, are homeless in the U.S.³ While the reasons for youth homelessness vary by individual, the primary causes appear to be a family breakdown or a systems failure of mainstream programs like child welfare, juvenile corrections, and mental health programs.⁴ Between 20,000 and 25,000 youth ages 16 and older transition from foster care to legal emancipation, or “age out” of the system annually with few resources and multiple challenges.⁵ As a result, former foster care youth are disproportionately represented in the homeless population. Twenty-five percent of former foster youth nationwide report that they have been homeless at least one night within two-and-a-half to four years after exiting foster care.⁶

Federal law defines “homeless children and youths” as follows:

(a) Individuals who lack a fixed, regular, and adequate nighttime residence (within the meaning of section 11302 (a)(1) of this title); and

(b) Includes—

(i) children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement;

(ii) children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings (within the meaning of section 11302 (a)(1) of this title);

(iii) children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and

(iv) migratory children (as such term is defined in section 6399 of title 20) who qualify as homeless for the purposes of this part because the children are living in circumstances described in clauses (1) through (iii).⁷

¹ Council on Homelessness Annual Report 2013. Florida Department of Children and Families, *accessible at*: <http://www.dcf.state.fl.us/programs/homelessness/docs/2013CouncilReport.pdf> (last visited February 26, 2014).

² *Id.*

³ The Heterogeneity of Homeless Youth in America, National Alliance to End Homelessness, September 2011 *accessible at*: <http://www.endhomelessness.org/library/entry/the-heterogeneity-of-homeless-youth-in-america-examining-typologies> (last visited March 17, 2014).

⁴ Fundamental Issues to Prevent and End Youth Homelessness, Youth Homelessness Series, Brief No. 1, National Alliance to End Homelessness, May 2006, *accessible at*: <http://www.endhomelessness.org/library/entry/fundamental-issues-to-prevent-and-end-youth-homelessness> (last visited March 17, 2014).

⁵ *Id.*

⁶ *Id.*

⁷ 42 U.S.C. s. 11434a.

The term, “unaccompanied youth,” is defined in federal law as a youth not in the physical custody of a parent or guardian.⁸ Unaccompanied homeless youth, because of their disability of nonage and finances, face particular challenges in seeking routine health care. They disproportionately suffer higher rates of mental illness, substance abuse, pregnancy and sexually transmitted diseases.⁹ While current law allows minors to consent to care for pregnancy and sexually transmitted diseases¹⁰, there is no statute which allows unaccompanied homeless youth to consent to general health and dental care.

Disabilities of Nonage

Disability of nonage refers to a minor’s lack of legal ability to enter into binding contracts.¹¹ However, minors who meet certain conditions can be granted the same rights as an adult. This process is known in current law as “having the disabilities of nonage removed.”¹² In the case of a minor who has had the court remove the disabilities of nonage, a court would authorize the minor to perform all acts that a person could do if he or she was 18 years of age or older.¹³

Under current law, a minor may receive emergency medical care without parental consent.¹⁴ A minor may consent to services relating to pregnancy¹⁵, treatment of sexually transmitted diseases¹⁶, and substance abuse.¹⁷ The question of consent to general medical and dental care on behalf of a homeless unaccompanied minor, or the child of such a minor, has not been addressed by Florida law.

School District Homeless Liaison

The Florida Department of Education has established a “school district homeless liaison” for each of the 67 counties.¹⁸ The duties of the liaison include:¹⁹

- Assisting homeless children and youth who do not have immunizations or medical records to obtain necessary immunizations or medical records;
- Helping unaccompanied youth enroll in a school;
- Approving homeless students’ eligibility for free lunch; and
- Providing homeless youth with access to all programs and services available to other students.²⁰

Emergency Shelter Program funded by U.S. Department of Housing and Urban Development

⁸ *Id.*

⁹ Yvonne Vissing, *Homeless Children and Youth: An Examination of Legal Challenges and Directions*, 13 J.L. Society 455, 504 (2012).

¹⁰ See ss. 381.0051, 743.065, and 384.30, F.S.

¹¹ 25 Fla. Jur 2d Family Law § 240.

¹² See ss. 743.01 (marriage), 743.015 (petition by guardian or guardian ad litem), and 743.067 (petition by unaccompanied youth), F.S.

¹³ S. 743.015, F.S.

¹⁴ S. 743.064, F.S.

¹⁵ S. 743.065, F.S. However, such care will not affect the requirements of the Parental Notice of Abortion Act. *Id.* Minors may also receive maternal health and contraceptive information and services of a nonsurgical nature. Section 381.0051(4), F.S. Furthermore, an unwed minor mother may consent to the performance of medical or surgical care or services for her child. Section 743.065, F.S.

¹⁶ Section 384.30, F.S.

¹⁷ Section 397.601(4)(a), F.S.

¹⁸ Florida Department of Education, District Liaison List, *accessible at*:

<http://search.fldoe.org/default.asp?cx=012683245092260330905%3Aalo4lmikgz4&cof=FORID%3A11&q=school+district+homeless+liaison> (last visited February 26, 2014).

¹⁹ *Id.*

²⁰ *The Education of Homeless Children and Youth*, U.S. Department of Health and Human Services, Administration for Children and Families, Fact Sheet, , *accessible at*:

https://www.google.com/url?q=http://www.fldoe.org/bsa/title1/pdf/homeless_tap_08_23_051.pdf&sa=U&ei=_yQnU6mOFYylkQfRlYGoDA&ved=0CAYQFjAB&client=internal-uds-cse&usq=AFQjCNFZ1J0cRlq2ZO-9A4XrNKK_dWe2XQ (last visited March 17, 2014).

The Emergency Shelter Program is operated by the Department of Housing and Urban Development and is designed as the first step in the Continuum of Care. The Emergency Shelter Grants Program provides funds for emergency shelters and transitional housing with appropriate support services to help individuals reach independent living. States use grant funds to operate these facilities, provide essential social services, and prevent homelessness.²¹ The providers of service must document that any youth served meets the federal definition of a homeless person.²²

Runway or Homeless Basic Youth Centers and Transitional Living Programs funded by U.S. Health and Human Services

The Basic Center Program works to establish or strengthen community-based programs that meet the immediate needs of runaway and homeless youth and their families.²³ The programs provide youth through age 18 with emergency shelter, food, clothing, counseling and referrals for health care.²⁴ Basic centers seek to reunite young people with their families, whenever possible, or to locate appropriate alternative placements.²⁵

The Transitional Living Programs supports projects that provide long-term residential services to homeless youth.²⁶ The Program accepts youth ages 16-21.²⁷ Transitional living programs are required to provide youth with stable, safe living accommodations, and services that help them develop the skills necessary to become independent.²⁸ Living accommodations may include host-family homes, group homes, maternity group homes, or supervised apartments owned by the program or rented in the community.²⁹

Clinical Social Worker Licensed under Chapter 491, F.S.

A clinical social worker is a person who has a master's or doctoral degree in social work and evaluates, assesses, diagnoses and treats emotional and mental disorders, behavioral disorders, and substance abuse.³⁰ To be licensed under ch. 491, F.S., a social worker must have a degree from an accredited school, have two years of experience in clinical social work under supervision, and pass a test issued by the state.³¹

²¹ U.S. Department of Housing and Homeless Development, Homelessness Resource Exchange, *accessible at*: <http://www.hudhre.info/index.cfm?do=viewEsgProgram> (last visited February 26, 2014).

²² U.S. Department of Housing and Homeless Development, Emergency Shelter Grant Desk Guide, Program Requirements and Responsibilities, *accessible at*: <https://www.onecpd.info/resource/829/emergency-shelter-grants-program-desk-guide/> (last visited February 26, 2014).

²³ U.S. Department of Health and Human Services, Administration for Children and Families, Fact Sheet Basic Center Program, *accessible at*: <http://www.acf.hhs.gov/programs/fysb/content/youthdivision/programs/bcpfactsheet.htm> (last visited February 26, 2014).

²⁴ *Id.*

²⁵ *Id.*

²⁶ U.S. Department of Health and Human Services, Administration for Children and Families, Fact Sheet Transitional Program, *accessible at*: <http://www.acf.hhs.gov/programs/fysb/content/youthdivision/programs/bcpfactsheet.htm> (last visited February 26, 2014).

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ Section 491.003, F.S.

³¹ Section 491.005(1), F.S.

Effect of the Bill

The bill changes the term “unaccompanied youth” to “unaccompanied homeless youth” in s. 743.067, F.S., related to the removal of disability of nonage of minors. The bill reorganizes the definition of the term and allows a licensed clinical social worker (LCSW) and a circuit court to certify an individual as an unaccompanied homeless youth, in addition to those who are currently able to certify unaccompanied youth in current law.

The bill specifies that minors who qualify as unaccompanied homeless youth must be issued a written certificate documenting this status. The bill requires the appropriate individual (either the school district homeless liaison, director of emergency shelter program, director of a runaway or homeless youth basic center, LCSW, or a circuit court) to issue this certificate. The bill specifies that the certificate must be issued on the official letterhead stationery of the person making the determination and must include:

- The date of the finding,
- A citation to s. 743.067, F.S., and
- The signature of the individual making the finding.

The bill authorizes an unaccompanied homeless youth to consent to medical, dental, psychological, substance abuse, and surgical diagnosis and treatment. The bill specifies that this includes preventative care and care by a licensed mental health facility, hospital, and substance abuse treatment facility. The bill also allows unaccompanied homeless youth to consent to a forensic medical exam.³² The bill allows such youth to consent to medical care for his or her own child if he or she is unmarried, is the parent of the child, and has custody of the child.

The bill allows a health care provider to accept the written certificate as proof of the minor’s status as an unaccompanied homeless youth. The bill specifies that the health care provider may keep a copy of the certificate in the youth’s file.

The bill also provides that it does not affect the requirements of the "Parental Notice of Abortion Act."³³

B. SECTION DIRECTORY:

Section 1: Amends s. 743.067, F.S. relating to unaccompanied youth.

Section 2: Provides an effective date of July 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have any impact on state revenues.

2. Expenditures:

The bill does not appear to have any impact on state expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have any impact on local government revenues.

2. Expenditures:

³² A forensic medical exam is conducted on a crime victim.

³³ Section 390.01114, F.S., requires a physician performing or inducing the termination of pregnancy for a minor to provide parental notice 48 hours before performing a termination procedure on a minor, unless waived by a parent or otherwise ordered by a judge.

The bill does not appear to have any impact on local government revenues.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill does not appear to have any direct economic impact on the private sector.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 5, 2014, the Civil Justice Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment:

- Changed the term “unaccompanied youth” to “unaccompanied homeless youth”;
- Provided that a licensed clinical social worker or a circuit court may also certify a youth as an “unaccompanied homeless youth”; and
- Required issuance of a certificate to an unaccompanied homeless youth.

This analysis is drafted to the committee substitute as passed by the Civil Justice Subcommittee.