

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 Health Policy

BILL: SB 444

INTRODUCER: Senator Bean

SUBJECT: Pregnancy Support Services

DATE: November 6, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Lloyd	Stovall	HP	Pre-meeting
2.			AHS	
3.			AP	

I. Summary:

SB 444 creates s. 381.96, F.S., to codify in statute the existing Pregnancy Support Services program (program) which has been funded by the state since the 2005-2006 fiscal year. The program provides pregnancy support and wellness services, such as direct client services, program awareness activities, and communication activities, through a statewide alliance of community organizations. The bill directs the Department of Health (DOH) to contract with the Florida Pregnancy Care Network (network) and specifies contract deliverables for the program, including financial reports, staffing requirements, and timeframes for achieving obligations. The network is to contract only with providers that exclusively promote and support childbirth.

The bill has no impact on state revenue or expenditures.

The effective date of the bill is July 1, 2018.

II. Present Situation:

Florida's Birth Rate

In 2016, over 217,000 women aged 15 to 50 in Florida had a birth in the past 12 months.¹ Almost half (48 percent) of Florida's births are to unmarried mothers with 86 percent of the fathers acknowledged on the birth certificate.²

¹ United States Census Bureau, *American Fact Finder - Selected Characteristics in the United States, 2011-2015 American Community Survey 5-Year Estimates*, https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_15_5YR_DP02&src=pt (last visited Oct. 27, 2017).

² Florida Department of Health, *Pregnancy and Young Child Profile – 2015*, <http://www.flhealthcharts.com/ChartsReports/rdPage.aspx?rdReport=ChartsProfiles.PregnancyandYoungChild> (last visited Oct. 27, 2017).

The state's infant mortality rate slightly increased to 6.2 infant deaths per 1,000 live births in 2015, and then back down to 6.1 for 2016 after reaching its lowest rate in Florida's history in 2014, 6.0.³ As the DOH notes in its *Florida Vital Statistics Annual Report-2015*, this represents less than half of the state's resident infant mortality rate of 1980.⁴ The most frequently cited causes of resident infant fatality in 2015 and the number reported were:

- Perinatal period conditions (756 deaths);
- Congenital malformations (266 deaths);
- Unintentional injuries (98 deaths); and
- Sudden Infant Death Syndrome (59 deaths).⁵

These causes accounted for 84 percent of all resident infant fatalities in Florida.⁶

The Florida Pregnancy Care Network

The Florida Pregnancy Care Network (network) is a private 501(c)(3)⁷ nonprofit organization that provides financial and other support to pregnant women and their families through an alliance of pregnancy support organizations. A five-person Board of Directors oversees the network and is run day-to-day by an Executive Director. The network includes over 50 sub-grantee resource organizations throughout the state that provide counseling, referral, material support, training, and education to pregnant mothers as they prepare to parent or place their babies for adoption.⁸ In 2015, the organization reported gross receipts of \$3.6 million.⁹

Florida Pregnancy Support Services Program

The network administers the Florida Pregnancy Support Services Program (program) through a contract with the DOH. The program has received continuous state funding since the 2005-2006 fiscal year, including \$4 million in general revenue funds for the 2017-2018 fiscal year.¹⁰

Proviso language in the Fiscal Year 2017-2018 General Appropriations Act (GAA) permits the funds to be used for wellness services, including but not limited to, high blood pressure screening, flu vaccines, anemia testing, thyroid screening, cholesterol, diabetes screening, assistance with smoking cessation, and tetanus vaccines.¹¹ Services may be purchased directly from qualified providers or vouchers may be offered. The GAA also requires that at least

³ Florida Department of Health, *FL Health Charts, Infant Deaths Data – Per 1,000 Live Births Single Year Rates*, <http://www.flhealthcharts.com/charts/DataViewer/InfantDeathViewer/InfantDeathViewer.aspx> (last visited Oct. 27, 2017).

⁴ Florida Department of Health, *Florida Vital Statistics Annual Report 2015, Executive Summary*, p. vi, <http://www.flpublichealth.com/VSBOOK/VSBOOK.aspx> (last visited Oct. 30, 2017).

⁵ *Id.*

⁶ *Id.*

⁷ Section 501(c)(3) of the Internal Revenue Code. Organizations described in this section are commonly referred to as charitable organizations.

⁸ I.R.S., Form 990, Return of Organization Exempt from Income Tax (2015) – Florida Pregnancy Care Network, Inc., Part I, Summary of organization's mission or most significant activities, *see profile at* <https://www.guidestar.org/profile/20-3707766> (last visited Oct. 30, 2017).

⁹ *Id.*

¹⁰ Chapter 2017-70, Specific Appropriation 445, Laws of Fla.

¹¹ *Id.*

85 percent of the funds appropriated be used for direct client services such as life skills, program awareness, and communications.¹² The DOH is directed to specifically contract with the program's current contract management provider and to provide the contractual oversight. Similar proviso language has been included in the GAA since the 2009-2010 fiscal year.

The DOH is authorized by the Fiscal Year 2017-2018 GAA to spend no more than \$500 per sub-contracted provider for contract oversight. Nine major deliverables with performance metrics and financial consequences are included in the contract with the network.¹³

Financial reimbursement through this contract is made to a minimum of 45 local pregnancy resource organizations for services to pregnant women and their families.¹⁴ While many participating organizations may be faith-based, they are not permitted to share religious information and contracting entities must ensure that they will strictly adhere to this regulation.¹⁵ The program also provides a statewide toll free number¹⁶ that is available 24/7 via phone or text message, and a website that can also connect women and their families to available resources.¹⁷ All services are available to women and their families free of charge and can continue for up to 12 months after the birth of the child.

Pregnant women and their families may use the program to prepare for pregnancy, childbirth, and parenting. The program offers free counseling and classes that cover these topics as well as nutrition and infant care. Participants may also receive items such as maternity and baby clothing, diapers, formula and baby food, baby bath items, cribs and infant carriers by participating in on-site classes and training.¹⁸ For Fiscal Year 2016-2017, the program served 27,011 clients for pregnancy services and 1,615 for wellness services. In the prior fiscal year, the program served 24,184 total clients.¹⁹

Background Screenings for Qualified Entities

Under s. 943.0542, F.S., certain businesses and organizations that provide care or care placement services, or licenses or certifies to provide care or care placement services, may have access to criminal history information from the Florida Department of Law Enforcement (FDLE) after registering with the FDLE and payment of any fees. The qualified entity must submit fingerprints to the FDLE with its request for screening and maintain a signed waiver allowing the release of the state and national criminal history record to the qualified entity. The amount of the

¹² Id.

¹³ Contract between the State of Florida, Department of Health and Florida Pregnancy Care Network, Inc., pp. 16-22, July 1, 2017 – June 30, 2018, (Agency Contract ID# COHN6). For a copy of the contract, visit the Florida Accountability Contract Tracking System at: <https://facts.fldfs.com/Search/ContractDetail.aspx?AgencyId=640000&ContractId=COHN6> (last visited Oct. 30, 2017).

¹⁴ Id at 9.

¹⁵ Id at 10.

¹⁶ The toll-free Option Line number is 1-866-673-HOPE (4673) or participants can text the word "choice" to 313131.

¹⁷ Florida Pregnancy Support Services, *I Might Be Pregnant* <http://www.floridapregnancysupportservices.com/i-might-be-pregnant/> (last visited Oct. 30, 2017).

¹⁸ Florida Pregnancy Support Services, *I Am Pregnant and Considering Terminating My Pregnancy*, <http://www.floridapregnancysupportservices.com/i-am-pregnant-and-need-help/> (last visited Oct. 30, 2017).

¹⁹ Email from Bryan Wendel, Florida Department of Health, (Oct. 31, 2017) (on file with the Senate Committee on Health Policy).

fee is set by the Federal Bureau of Investigation (FBI) for the national criminal history check in compliance with the National Child Protection Act of 1993, as amended.

The national criminal history data is available to qualified entities to use only for the purpose of screening employees and volunteers or persons applying to be employees or volunteers. The FDLE will provide the information directly to the qualified entity as permitted by the written waiver. Whether the individual is fit to be an employee or volunteer around children or the elderly is for the qualified entity to determine; the FDLE will not make that determination. The qualified entity must notify the screened individual of his or her right to obtain a copy of the screening report as well as any criminal records.

The current contract between the DOH and the network requires all paid staff and volunteers to have a state and national criminal background check as described above if they provide direct services to minors, the elderly, or individuals with disabilities.²⁰ If it is the individual's initial screening, the screening must include fingerprint checks through the FDLE and the FBI.²¹

III. Effect of Proposed Changes:

Section 1 creates s. 381.96, F.S., to codify in statute the Pregnancy Support Services Program, a program that has been funded through the General Appropriations Act since the 2005-2006 fiscal year. The bill implements most of the provisions from the prior years' proviso language with a few exceptions and additions as noted below:

- A specific directive to spend at least 90 percent of the contract funds on pregnancy support and wellness services rather than the currently required 85 percent of appropriated funds on direct client services, including life skills, program awareness, and communications.
- A specific requirement for background screening under s. 943.0542, F.S., for all paid staff and volunteers of a subcontractor if those individuals provide direct client services to a client who is a minor or an elderly person or who has a disability.

Definitions are provided for the DOH, eligible client, Florida Pregnancy Care Network, Inc., Florida pregnancy support services, and wellness services.

The bill directs the DOH to specify the contract deliverables with the network, including requirements to:

- Establish the financial and other reporting deliverables, the timeframes for achieving the contractual obligations, and any other requirements deemed necessary by the DOH, such as staffing and location requirements;
- Survey subcontractors annually and to specify the sanctions that shall be imposed for noncompliance with the terms of a subcontract;
- Establish and manage the subcontracts with a sufficient number of networks to ensure availability of pregnancy support and wellness services and to maintain delivery of those services throughout the contract term;

²⁰ Contract between the DOH and the Florida Pregnancy Care Network, Inc., *Supra* note 13, at 9.

²¹ *Id.*

- Offer wellness services or vouchers or other appropriate payment arrangements that allow for the purchase of services from qualified providers;
- Subcontract only with providers that exclusively promote and support childbirth; and
- Ensure that informational materials provided to eligible clients are accurate, current, and cite a reference source of any medical statement.

The bill restricts the services provided under the contract to be non-coercive and instructional materials may not include faith-based content.

Section 2 provides an effective date of July 1, 2018.

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:

Either the subcontracted pregnancy support organizations or the network will be paying the costs of the criminal background checks at the cost of \$36.00 per employee or \$28.75 per volunteer.²² The current contract between the program and the department requires the program's subcontractors to follow these same screening requirements.²³ The current contract places this responsibility on the individual subcontractors.

C. Government Sector Impact:

The DOH is responsible for the contractual oversight of the state's funding of the program. Proviso language included in the Fiscal Year 2017-2018 GAA places a cap of

²² Florida Department of Law Enforcement, *Criminal History Record Check Fee Schedule* (October 1, 2016) https://www.fdle.state.fl.us/cms/Criminal-History-Records/Documents/BackgroundChecks_FAQ.aspx, p. 8, (last visited Oct. 30, 2017)

²³ Contract between the DOH and the Florida Pregnancy Care Network, Inc., *Supra* note 13, at 9.

\$50,000 on DOH administrative costs.²⁴ The bill does not place a maximum or minimum funding amount for the DOH's administrative oversight functions.

The FDLE will be processing additional background checks for the program employees and volunteers. It is unknown at this time how many employees or volunteers will be processed under this requirement. The background check will cost \$36.00 for employees and \$28.75 for volunteers.²⁵

VI. Technical Deficiencies:

Line 58 of the bill needs to include the phrase "and wellness."

VII. Related Issues:

The DOH is concerned whether 10 percent of the appropriated funds is sufficient for the administrative and oversight responsibilities delineated in the bill for the DOH and the network.

VIII. Statutes Affected:

This bill creates section 381.96 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

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.

²⁴ *Supra* note 10.

²⁵ Contract between the DOH and the Florida Pregnancy Care Network, Inc., *Supra* note 13, at 9.