

|                                                                                                                                                          |    |   |     |             |                         |                |  |
|----------------------------------------------------------------------------------------------------------------------------------------------------------|----|---|-----|-------------|-------------------------|----------------|--|
| <b>Tab 1 SB 96 by Book; Child Welfare</b>                                                                                                                |    |   |     |             |                         |                |  |
| 871028                                                                                                                                                   | A  | S | RCS | CF, Book    | Delete L.1856 - 1859:   | 03/02 06:09 PM |  |
| <b>Tab 2 SB 130 by Rouson (CO-INTRODUCERS) Harrell; (Similar to H 00083) Mental Health and Substance Use Disorders</b>                                   |    |   |     |             |                         |                |  |
| 652936                                                                                                                                                   | A  | S | RCS | CF, Rouson  | btw L.118 - 119:        | 03/02 06:09 PM |  |
| 207404                                                                                                                                                   | A  | S | RCS | CF, Rouson  | Delete L.196 - 249:     | 03/02 06:09 PM |  |
| <b>Tab 3 SB 260 by Harrell (CO-INTRODUCERS) Wright, Rodriguez, Cruz, Stewart, Burgess; (Similar to H 00231) Services for Veterans and Their Families</b> |    |   |     |             |                         |                |  |
| <b>Tab 4 SB 626 by Bracy (CO-INTRODUCERS) Torres; (Compare to H 00303) Juvenile Justice</b>                                                              |    |   |     |             |                         |                |  |
| 727218                                                                                                                                                   | D  | S | RS  | CF, Bracy   | Delete everything after | 03/03 09:26 AM |  |
| 102308                                                                                                                                                   | SD | S | RCS | CF, Bracy   | Delete everything after | 03/03 09:26 AM |  |
| <b>Tab 5 SB 680 by Bracy (CO-INTRODUCERS) Stewart; BATTERERS' Intervention Programs</b>                                                                  |    |   |     |             |                         |                |  |
| 186592                                                                                                                                                   | A  | S | RCS | CF, Bracy   | Delete L.51 - 52:       | 03/02 06:09 PM |  |
| <b>Tab 6 SB 682 by Bracy; Fees/BATTERERS' Intervention Programs</b>                                                                                      |    |   |     |             |                         |                |  |
| 609710                                                                                                                                                   | A  | S | RCS | CF, Bracy   | Delete L.59:            | 03/02 06:09 PM |  |
| <b>Tab 7 SB 804 by Harrell; (Identical to H 00319) Substance Abuse Services</b>                                                                          |    |   |     |             |                         |                |  |
| 118252                                                                                                                                                   | A  | S | RCS | CF, Harrell | Delete L.85 - 105:      | 03/02 06:09 PM |  |
| <b>Tab 8 SB 932 by Wright; (Similar to H 00141) Minor Time-sharing for Registered Sexual Offenders and Sexual Predators</b>                              |    |   |     |             |                         |                |  |
| 723340                                                                                                                                                   | A  | S | RCS | CF, Wright  | Delete L.66 - 76:       | 03/02 06:09 PM |  |

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

**CHILDREN, FAMILIES, AND ELDER AFFAIRS**

**Senator Book, Chair**  
**Senator Albritton, Vice Chair**

**MEETING DATE:** Tuesday, March 2, 2021  
**TIME:** 4:00—6:00 p.m.  
**PLACE:** Mallory Horne Committee Room, 37 Senate Building

**MEMBERS:** Senator Book, Chair; Senator Albritton, Vice Chair; Senators Brodeur, Garcia, Harrell, Rouson, Torres, and Wright

| TAB                                                                                                                                | BILL NO. and INTRODUCER                   | BILL DESCRIPTION and<br>SENATE COMMITTEE ACTIONS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | COMMITTEE ACTION        |
|------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|
| PUBLIC TESTIMONY WILL BE RECEIVED FROM ROOM A2 AT THE DONALD L. TUCKER CIVIC CENTER, 505 W PENSACOLA STREET, TALLAHASSEE, FL 32301 |                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                         |
| 1                                                                                                                                  | <b>SB 96</b><br>Book                      | Child Welfare; Transferring existing provisions relating to the central abuse hotline of the Department of Children and Families; providing criminal, civil, and administrative immunity to child protective investigators who report known or suspected animal cruelty; authorizing offices of criminal conflict and civil regional counsel to establish a multidisciplinary legal representation model program to serve parents of children in the dependency system; requiring the department to make available specified training for caregivers on the life skills necessary for children in out-of-home care; revising prohibitions relating to sexual conduct and sexual contact with an animal, etc.<br><br>CF 03/02/2021 Fav/CS<br>AP<br>RC | Fav/CS<br>Yeas 8 Nays 0 |
| 2                                                                                                                                  | <b>SB 130</b><br>Rouson<br>(Similar H 83) | Mental Health and Substance Use Disorders; Providing that the use of peer specialists is an essential element of a coordinated system of care in recovery from a substance use disorder or mental illness; requiring the department to certify peer specialists, either directly or by approving a third-party credentialing entity; requiring that a person providing recovery support services be certified or be supervised by a licensed behavioral health care professional or a certified peer specialist; requiring peer specialists and certain persons to meet the requirements of a background screening as a condition of employment and continued employment, etc.<br><br>CF 03/02/2021 Fav/CS<br>AHS<br>AP                              | Fav/CS<br>Yeas 8 Nays 0 |

**COMMITTEE MEETING EXPANDED AGENDA**

Children, Families, and Elder Affairs

Tuesday, March 2, 2021, 4:00—6:00 p.m.

| TAB | BILL NO. and INTRODUCER                                              | BILL DESCRIPTION and<br>SENATE COMMITTEE ACTIONS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | COMMITTEE ACTION           |
|-----|----------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|
| 3   | <b>SB 260</b><br>Harrell<br>(Similar H 231)                          | Services for Veterans and Their Families; Requiring the Department of Veterans' Affairs to establish the Florida Veterans' Care Coordination Program to provide behavioral health care referral and care coordination services for veterans and their families; requiring the department to contract with a certain nonprofit entity to enter into agreements with Florida 211 Network participants to provide such services; requiring Florida 211 Network participants to collect program implementation data and to submit such data to the department; requiring the department to submit a report to the Governor and the Legislature by a specified date, etc.<br><br>MS 02/02/2021 Favorable<br>CF 03/02/2021 Favorable<br>AP | Favorable<br>Yeas 8 Nays 0 |
| 4   | <b>SB 626</b><br>Bracy<br>(Compare H 303, H 1451, S 1452)            | Juvenile Justice; Creating the "Kaia Rolle Act"; prohibiting a child younger than a certain age from being adjudicated delinquent, arrested, or charged with a violation of law or a delinquent act; authorizing children of at least a specified age, rather than of any age, to be taken into custody under certain circumstances; requiring that children who are taken into custody pursuant to certain circuit court orders be treated in a specified manner and be detained only pursuant to specified findings, etc.<br><br>CF 02/16/2021 Temporarily Postponed<br>CF 03/02/2021 Fav/CS<br>CJ<br>AP                                                                                                                           | Fav/CS<br>Yeas 8 Nays 0    |
|     | Representative Statement on behalf of Kaia Rolle by Marilyn Kirkland |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Presented                  |
| 5   | <b>SB 680</b><br>Bracy<br>(Linked S 682)                             | Batterers' Intervention Programs; Requiring the Department of Children and Families to certify and monitor certain batterers' intervention programs; requiring batterers' intervention programs to satisfy specified requirements for certification by the department; requiring the department to annually provide a list of certified programs and to immediately notify the courts if it suspends a program's certification, etc.<br><br>CF 03/02/2021 Fav/CS<br>AHS<br>AP                                                                                                                                                                                                                                                        | Fav/CS<br>Yeas 8 Nays 0    |

**COMMITTEE MEETING EXPANDED AGENDA**

Children, Families, and Elder Affairs

Tuesday, March 2, 2021, 4:00—6:00 p.m.

| TAB | BILL NO. and INTRODUCER                                 | BILL DESCRIPTION and<br>SENATE COMMITTEE ACTIONS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | COMMITTEE ACTION        |
|-----|---------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|
| 6   | <b>SB 682</b><br>Bracy<br>(Compare S 608, Linked S 680) | Fees/Batterers' Intervention Programs; Reviving, reenacting, and amending a provision relating to certification and monitoring of batterers' intervention programs and fees; requiring the Department of Children and Families to assess and collect an annual certification fee from batterers' intervention programs; requiring certain persons attending certified batterers' intervention programs to pay a fee for each program attended; requiring certification and user fees to be deposited in the Domestic Violence Trust Fund for a specified purpose, etc.<br><br>CF 03/02/2021 Fav/CS<br>AHS<br>AP                                                                            | Fav/CS<br>Yeas 8 Nays 0 |
| 7   | <b>SB 804</b><br>Harrell<br>(Identical H 319)           | Substance Abuse Services; Providing criminal penalties for making certain false representations or omissions of material facts when applying for service provider licenses; requiring the Department of Children and Families to suspend a service provider's license under certain circumstances; revising the circumstances under which a credentialing entity is not required to deny an application for certification of a recovery residence or a recovery residence administrator, respectively; prohibiting certain dwellings used as recovery residences from being reclassified for purposes of enforcing the Florida Building Code, etc.<br><br>CF 03/02/2021 Fav/CS<br>CA<br>RC | Fav/CS<br>Yeas 8 Nays 0 |
| 8   | <b>SB 932</b><br>Wright<br>(Similar H 141)              | Minor Time-sharing for Registered Sexual Offenders and Sexual Predators; Prohibiting a court from granting time-sharing with a minor child to a parent registered as a sexual offender or sexual predator under certain circumstances, etc.<br><br>CF 03/02/2021 Fav/CS<br>CJ<br>RC                                                                                                                                                                                                                                                                                                                                                                                                        | Fav/CS<br>Yeas 7 Nays 1 |

Other Related Meeting Documents



871028

LEGISLATIVE ACTION

|            |   |       |
|------------|---|-------|
| Senate     | . | House |
| Comm: RCS  | . |       |
| 03/02/2021 | . |       |
|            | . |       |
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|            | . |       |

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

**Senate Amendment (with title amendment)**

Delete lines 1856 - 1859  
and insert:

Section 23. This act shall take effect October 1, 2021.

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

And the title is amended as follows:

Delete line 106

and insert:

providing an effective date.

By Senator Book

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A bill to be entitled

An act relating to child welfare; creating s. 39.101, F.S.; transferring existing provisions relating to the central abuse hotline of the Department of Children and Families; providing additional requirements relating to the hotline; revising requirements for certain statistical reports that the department is required to collect and analyze; amending s. 39.201, F.S.; revising when a person is required to report to the central abuse hotline; requiring animal control officers and certain agents to provide their names to hotline staff; requiring central abuse hotline counselors to advise reporters of certain information; requiring counselors to receive specified periodic training; revising requirements relating to reports of abuse involving impregnation of children; providing requirements for the department when handling reports of child abuse, neglect, or abandonment by a parent or caregiver and reports of child-on-child sexual abuse; amending s. 39.2015, F.S.; specifying serious incidents for which the department is required to provide an immediate multiagency investigation; requiring an immediate onsite investigation by a critical incident rapid response team when reports are received by the department containing allegations of the sexual abuse of certain children; revising membership of multiagency teams; amending s. 39.202, F.S.; expanding the authorization of access to certain confidential records to include members of standing or

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select legislative committees, upon request, within a specified timeframe; amending s. 39.205, F.S.; providing construction; specifying that certain persons are not relieved from the duty to report by notifying a supervisor; creating s. 39.208, F.S.; providing legislative findings and intent; providing responsibilities for child protective investigators relating to animal cruelty; providing criminal, civil, and administrative immunity to child protective investigators who report known or suspected animal cruelty; providing responsibilities for animal control officers relating to child abuse, abandonment, and neglect; providing criminal penalties; requiring the department to develop training in consultation with the Florida Animal Control Association which relates to child and animal cruelty; providing requirements for such training; requiring the department to adopt rules; amending s. 39.302, F.S.; conforming cross-references; authorizing certain persons to be represented by an attorney or accompanied by another person under certain circumstances during institutional investigations; providing requirements relating to institutional investigations; amending s. 39.3035, F.S.; providing a description of child advocacy centers; creating s. 39.4092, F.S.; providing legislative findings; authorizing offices of criminal conflict and civil regional counsel to establish a multidisciplinary legal representation model program to serve parents of children in the dependency system;

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59 requiring the department to collaborate with the  
60 office to implement a program and provide funding;  
61 specifying program requirements; defining the term  
62 "parent-peer specialist"; requiring each region that  
63 establishes a multidisciplinary legal representation  
64 model program to submit an annual report by a certain  
65 date to the Office of Program Policy Analysis and  
66 Government Accountability; requiring the office to  
67 compile the reports and include such information in a  
68 specified report sent to the Governor and the  
69 Legislature by a specified date; authorizing the  
70 office of criminal conflict and civil regional counsel  
71 to adopt rules; amending s. 409.1415, F.S.; requiring  
72 the department to make available specified training  
73 for caregivers on the life skills necessary for  
74 children in out-of-home care; requiring the department  
75 to establish the Foster Information Center for  
76 specified purposes; requiring community-based care  
77 lead agencies to provide certain information and  
78 resources to kinship caregivers and to provide  
79 specified assistance to such caregivers; requiring  
80 lead agencies to provide caregivers with a certain  
81 telephone number; repealing s. 409.1453, F.S.,  
82 relating to the design and dissemination of training  
83 for foster care caregivers; repealing s. 409.1753,  
84 F.S.; relating to duties of the department relating to  
85 foster care; providing legislative intent; amending s.  
86 827.071, F.S.; renaming the term "sexual bestiality"  
87 as "sexual contact with an animal" and redefining the

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term; amending s. 828.126, F.S.; revising and defining terms; revising prohibitions relating to sexual conduct and sexual contact with an animal; revising criminal penalties; requiring a court to issue certain orders; revising applicability; amending s. 828.27, F.S.; requiring county and municipal animal control officers to complete specified training; requiring that animal control officers be provided with opportunities to attend such training during normal work hours; amending s. 921.0022, F.S.; assigning an offense severity ranking for sexual activities involving animals; amending s. 1012.795, F.S.; requiring the Education Practices Commission to suspend the educator certificate of instructional personnel and school administrators for failing to report known or suspected child abuse under certain circumstances; amending ss. 39.301, 119.071, 322.09, and 934.03, F.S.; conforming cross-references; providing effective dates.

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

Section 1. Section 39.101, Florida Statutes, is created to read:

39.101 Central abuse hotline.—The central abuse hotline is the first step in the safety assessment and investigation process.

(1) ESTABLISHMENT AND OPERATION.—

(a) The department shall operate and maintain a central

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117 abuse hotline capable of receiving all reports of known or  
118 suspected child abuse, abandonment, or neglect and reports that  
119 a child is in need of supervision and care and has no parent,  
120 legal custodian, or responsible adult relative immediately known  
121 and available to provide supervision and care. The hotline must  
122 accept reports 24 hours a day, 7 days a week, and such reports  
123 must be made in accordance with s. 39.201. The central abuse  
124 hotline must be capable of accepting reports made in accordance  
125 with s. 39.201 in writing, through a single statewide toll-free  
126 telephone number, or through electronic reporting. Any person  
127 may use any of these methods to make a report to the central  
128 abuse hotline.

129 (b) The central abuse hotline must be operated in such a  
130 manner as to enable the department to:

131 1. Accept reports for investigation when there is a  
132 reasonable cause to suspect that a child has been or is being  
133 abused or neglected or has been abandoned.

134 2. Determine whether the allegations made by the reporter  
135 require an immediate or a 24-hour response priority in  
136 accordance with subsection (2).

137 3. Immediately identify and locate prior reports or cases  
138 of child abuse, abandonment, or neglect through the use of the  
139 department's automated tracking system.

140 4. Track critical steps in the investigative process to  
141 ensure compliance with all requirements for any report of abuse,  
142 abandonment, or neglect.

143 5. When appropriate, refer calls that do not allege the  
144 abuse, neglect, or abandonment of a child to other organizations  
145 that may better resolve the reporter's concerns.

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146 6. Serve as a resource for the evaluation, management, and  
147 planning of preventive and remedial services for children who  
148 have been subjected to abuse, abandonment, or neglect.

149 7. Initiate and enter into agreements with other states for  
150 the purposes of gathering and sharing information contained in  
151 reports on child maltreatment to further enhance programs for  
152 the protection of children.

153 8. Promote public awareness of the central abuse hotline  
154 through community-based partner organizations and public service  
155 campaigns.

156 (2) TIMELINES FOR INITIATING INVESTIGATION.—Upon receiving  
157 a report to the central abuse hotline, the department must  
158 determine the timeframe in which to initiate an investigation  
159 pursuant to chapter 39. An investigation must be commenced:

160 (a) Immediately, regardless of the time of day or night, if  
161 it appears that:

162 1. The immediate safety or well-being of a child is  
163 endangered;

164 2. The family may flee or the child may be unavailable for  
165 purposes of conducting a child protective investigation; or

166 3. The facts reported to the central abuse hotline  
167 otherwise so warrant.

168 (b) Within 24 hours after receipt of a report that does not  
169 involve the criteria specified in paragraph (a).

170 (3) COLLECTION OF INFORMATION AND DATA.—The department  
171 shall:

172 (a)1. Voice-record all incoming or outgoing calls that are  
173 received or placed by the central abuse hotline which relate to  
174 suspected or known child abuse, neglect, or abandonment and

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maintain an electronic copy of each report made to the hotline,  
whether through a call or the electronic system.

2. Make the recording or electronic copy of the report made  
to the central abuse hotline a part of the record.

Notwithstanding s. 39.202, the recording must be released in  
full only to law enforcement agencies and state attorneys for  
the purposes of investigating and prosecuting criminal charges  
pursuant to s. 39.205, or to employees of the department for the  
purposes of investigating and seeking administrative penalties  
pursuant to s. 39.206.

This paragraph does not prohibit hotline staff from using the  
recordings or the electronic reports for quality assurance or  
training purposes.

(b)1. Secure and install electronic equipment that  
automatically provides to the hotline the number from which the  
call or fax is placed or the Internet protocol address from  
which the report is received.

2. Enter the number or Internet protocol address into the  
report of abuse, abandonment, or neglect for it to become a part  
of the record of the report.

3. Maintain the confidentiality of such information in the  
same manner as given to the identity of the reporter pursuant to  
s. 39.202.

(c)1. Update the web form used for reporting child abuse,  
abandonment, or neglect to include qualifying questions in order  
to obtain necessary information required to assess need and the  
timelines necessary for initiating an investigation under  
subsection (2).

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204       2. Make the report available in its entirety to the  
205 counselors as needed to update the Florida Safe Families Network  
206 or other similar systems.

207       (d) Monitor and evaluate the effectiveness of the reporting  
208 and investigating of suspected child abuse, abandonment, or  
209 neglect through the development and analysis of statistical and  
210 other information.

211       (e) Maintain and produce aggregate statistical reports  
212 monitoring patterns of child abuse, abandonment, and neglect.

213       (f)1. Collect and analyze child-on-child sexual abuse  
214 reports and include such information in the aggregate  
215 statistical reports.

216       2. Collect and analyze, in separate statistical reports,  
217 those reports of child abuse and sexual abuse which are reported  
218 from or which occurred:

219       a. On school premises;

220       b. On school transportation;

221       c. At school-sponsored off-campus events;

222       d. At any school readiness program provider determined to  
223 be eligible under s. 1002.88;

224       e. At a private prekindergarten provider or a public school  
225 prekindergarten provider, as those terms are defined in s.  
226 1002.51;

227       f. At a public K-12 school as described in s. 1000.04;

228       g. At a private school as defined in s. 1002.01;

229       h. At a Florida College System institution or a state  
230 university, as those terms are defined in s. 1000.21; or

231       i. At any school, as defined in s. 1005.02.

232       (4) USE OF INFORMATION RECEIVED BY HOTLINE.—

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(a) Information received by the central abuse hotline may not be used for employment screening, except as provided in s. 39.202(2)(a) or (h) or s. 402.302(15).

(b) Information in the central abuse hotline and the department's automated abuse information system may be used by the department, its authorized agents or contract providers, the Department of Health, or county agencies as part of the licensure or registration process pursuant to ss. 402.301-402.319 and ss. 409.175-409.176.

(c) Information in the central abuse hotline also may be used by the Department of Education for purposes of educator certification discipline and review pursuant to s. 39.202(2)(q).

(5) QUALITY ASSURANCE.—On an ongoing basis, the department's quality assurance program shall review screened-out reports involving three or more unaccepted reports on a single child, when jurisdiction applies, in order to detect such things as harassment and situations that warrant an investigation because of the frequency of the reports or the variety of the sources of the reports. A component of the quality assurance program must analyze unaccepted reports to the hotline by identified relatives as a part of the review of screened-out calls. The Assistant Secretary for Child Welfare may refer a case for investigation when it is determined, as a result of such review, that an investigation may be warranted.

Section 2. Section 39.201, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 39.201, F.S., for present text.)

39.201 Required reports of child abuse, abandonment,

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neglect, and juvenile sexual abuse; required reports of death;  
reports involving a child who has exhibited inappropriate sexual  
behavior.—

(1) REQUIRED REPORTING.—

(a)1. A person is required to report immediately to the  
central abuse hotline established in s. 39.101, by a call to the  
toll-free number or by electronic report, if he or she knows, or  
has reasonable cause to suspect, that any of the following has  
occurred:

a. Child abuse, neglect, or abandonment by a parent or  
caregiver, which includes, but is not limited to, when a child  
is abused, neglected, or abandoned by a parent, legal custodian,  
caregiver, or other person responsible for the child's welfare  
or when a child is in need of supervision and care and has no  
parent, legal custodian, or responsible adult relative  
immediately known and available to provide supervision and care.

b. Child abuse by a noncaregiver, which includes, but is  
not limited to, when a child is abused by an adult other than a  
parent, legal custodian, caregiver, or other person responsible  
for the child's welfare. Such reports must be immediately  
electronically transferred to the appropriate county sheriff's  
office by the central abuse hotline.

2. Any person who knows, or has reasonable cause to  
suspect, that a child is the victim of childhood sexual abuse or  
of juvenile sexual abuse shall report such knowledge or  
suspicion to the department. This includes any alleged incident  
involving a child who is in the custody of or under the  
protective supervision of the department.

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Such reports may be made on the single statewide toll-free telephone number or by fax, web-based chat, or web-based report.

(b)1. A person from the general public may make a report to the central abuse hotline anonymously if he or she chooses to do so.

2. A person making a report to the central abuse hotline under this section who is part of any of the following occupational categories is required to provide his or her name to the central abuse hotline staff:

a. Physician, osteopathic physician, medical examiner, chiropractic physician, nurse, or hospital personnel engaged in the admission, examination, care, or treatment of persons;

b. Health professional or mental health professional other than a category listed in sub-subparagraph a.;

c. Practitioner who relies solely on spiritual means for healing;

d. School teacher or other school official or personnel;

e. Social worker, day care center worker, or other professional child care worker, foster care worker, residential worker, or institutional worker;

f. Law enforcement officer;

g. Judge; or

h. Animal control officer as defined in s. 828.27 or agent appointed under s. 828.03.

(c) Central abuse hotline counselors shall advise persons who are making a report to the central abuse hotline that, while their names must be entered into the record of the report, the names of reporters are held confidential and exempt as provided in s. 39.202. Counselors must receive periodic training in

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encouraging all reporters to provide their names when making a report.

(2) EXCEPTIONS TO REPORTING.—

(a) An additional report of child abuse, abandonment, or neglect does not have to be made by:

1. A professional who is hired by or who enters into a contract with the department for the purpose of treating or counseling any person as a result of a report of child abuse, abandonment, or neglect if such person was the subject of the referral for treatment.

2. An officer or employee of the judicial branch when the child is currently being investigated by the department, when there is an existing dependency case, or when the matter has previously been reported to the department, if there is reasonable cause to believe that the information is already known to the department. This subparagraph applies only when the information has been provided to the officer or employee in the course of carrying out his or her official duties.

3. An officer or employee of a law enforcement agency when the incident under investigation by the law enforcement agency was reported to law enforcement by the central abuse hotline through the electronic transfer of the report or call. The department's central abuse hotline is not required to electronically transfer calls and reports received pursuant to paragraph (1)(b) to the county sheriff's office if the matter was initially reported to the department by the county sheriff's office or by another law enforcement agency. This subparagraph applies only when the information related to the alleged child abuse has been provided to the officer or employee of a law

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349 enforcement agency or central abuse hotline employee in the  
350 course of carrying out his or her official duties.

351 (b) Nothing in this chapter or in the contract with  
352 community-based care providers for foster care and related  
353 services as specified in s. 409.987 may be construed to remove  
354 or reduce the duty and responsibility of any person, including  
355 any employee of the community-based care provider, to report a  
356 suspected or actual case of child abuse, abandonment, or neglect  
357 or the sexual abuse of a child to the department's central abuse  
358 hotline.

359 (3) ADDITIONAL CIRCUMSTANCES RELATED TO REPORTS.—

360 (a) Abuse occurring out of state.—

361 1. Except as provided in subparagraph 2., the central abuse  
362 hotline is prohibited from taking a report of known or suspected  
363 child abuse, abandonment, or neglect when the report is related  
364 to abuse, abandonment, or neglect that occurred out of state and  
365 the alleged perpetrator and the child alleged to be a victim do  
366 not live in this state.

367 2. If the child is currently being evaluated in a medical  
368 facility in this state, the central abuse hotline must accept  
369 the report or call for investigation and must transfer the  
370 information on the report or call to the appropriate state or  
371 country.

372 3. If the child is not currently being evaluated in a  
373 medical facility in this state, the central abuse hotline must  
374 transfer the information on the report or call to the  
375 appropriate state or county.

376 (b) Abuse reports received from emergency room physicians.—

377 The department must initiate an investigation when it receives a

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report from an emergency room physician.

(c) Abuse involving impregnation of a child.—A report must be immediately electronically transferred to the appropriate county sheriff's office or other appropriate law enforcement agency by the central abuse hotline if the report is of an instance of known or suspected child abuse involving impregnation of a child younger than 16 years of age by a person 21 years of age or older solely under s. 827.04(3). If the report is of known or suspected child abuse solely under s. 827.04(3), the reporting provisions of subsection (1) do not apply to health care professionals or other persons who provide medical or counseling services to pregnant children when such reporting would interfere with the provision of medical services.

(d) Institutional child abuse or neglect.—Reports involving known or suspected institutional child abuse or neglect, as defined in s. 39.01, must be made and received in the same manner as all other reports made pursuant to this section.

(e) Surrendered newborn infants.—

1. The department must receive reports involving surrendered newborn infants as described in s. 383.50.

2.a. A report may not be considered a report of abuse, neglect, or abandonment solely because the infant has been left at a hospital, emergency medical services station, or fire station pursuant to s. 383.50.

b. If the report involving a surrendered newborn infant does not include indications of abuse, neglect, or abandonment other than that necessarily entailed in the infant having been left at a hospital, emergency medical services station, or fire

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station, the department must provide to the caller making the report the name of a licensed child-placing agency on a rotating basis from a list of licensed child-placing agencies eligible and required to accept physical custody of and to place surrendered newborn infants.

3. If the report includes indications of abuse or neglect beyond that necessarily entailed in the infant having been left at a hospital, emergency medical services station, or fire station, the report must be considered as a report of abuse, neglect, or abandonment and, notwithstanding chapter 383, is subject to the requirements of s. 39.395 and all other relevant provisions of this chapter.

(4) REPORTS OF CHILD ABUSE, NEGLECT, OR ABANDONMENT BY A PARENT OR CAREGIVER.—

(a)1. Upon receiving a report made to the department's central abuse hotline, personnel of the department shall determine if the received report meets the statutory definition of child abuse, abandonment, or neglect.

2. Any report meeting one of these definitions must be accepted for protective investigation pursuant to part III of this chapter.

(b)1. Any call received from a parent or legal custodian seeking assistance for himself or herself which does not meet the criteria for being a report of child abuse, abandonment, or neglect may be accepted by the hotline for response to ameliorate a potential future risk of harm to a child.

2. The department must refer the parent or legal custodian for appropriate voluntary community services if it is determined by personnel of the department that a need for community

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services exists.

(5) REPORTS OF SEXUAL ABUSE OF A CHILD, JUVENILE SEXUAL ABUSE, OR A CHILD WHO HAS EXHIBITED INAPPROPRIATE SEXUAL BEHAVIOR.—

(a) Reports involving sexual abuse of a child or juvenile sexual abuse shall be made immediately to the department's central abuse hotline. Such reports may be made on the single statewide toll-free telephone number or by fax, web-based chat, or web-based report. This includes any alleged incident involving a child who is in the custody of or under the protective supervision of the department.

(b)1. Within 48 hours after receiving a report required under subparagraph (1)(a)2. made to the department's central abuse hotline, personnel of the department shall conduct an assessment, assist the family in receiving appropriate services pursuant to s. 39.307, and send a written report of the allegation to the appropriate county sheriff's office.

2. Reports involving a child who has exhibited inappropriate sexual behavior must be made and received by the department. The central abuse hotline shall immediately electronically transfer the report or call to the county sheriff's office. The department shall conduct an assessment and assist the family in receiving appropriate services pursuant to s. 39.307 and send a written report of the allegation to the appropriate county sheriff's office within 48 hours after the initial report is made to the central abuse hotline.

(c) The services identified in the assessment should be provided in the least restrictive environment possible and must include, but need not be limited to, child advocacy center

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services pursuant to s. 39.3035 and sexual abuse treatment programs developed and coordinated by the Children's Medical Services Program in the Department of Health pursuant to s. 39.303.

(d) The department shall ensure that the facts and results of any investigation of such abuse involving a child in the custody of, or under the protective supervision of, the department are made known to the court at the next hearing and are included in the next report to the court concerning the child.

(e)1. In addition to conducting an assessment and assisting the family in receiving appropriate services, the department shall conduct a child protective investigation under subparagraph (1)(a)2. which occurs on school premises; on school transportation; at school-sponsored off-campus events; at a public or private school readiness or prekindergarten program; at a public K-12 school; or at a private school. The protective investigation must include an interview with the child's parent or legal guardian.

2. Further, the department shall notify the Department of Education; the law enforcement agency having jurisdiction over the municipality or county in which the school is located; and, as appropriate, the superintendent of the school district where the school is located, the administrative officer of the private school, or the owner of the private school readiness or prekindergarten provider.

3. The department shall make a full written report to the law enforcement agency within 3 working days after making the oral report. Whenever possible, any criminal investigation must

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be coordinated with the department's child protective investigation. Any interested person who has information regarding such abuse may forward a statement to the department.

(6) MANDATORY REPORTS OF A CHILD DEATH.—Any person required to report or investigate cases of suspected child abuse, abandonment, or neglect who has reasonable cause to suspect that a child died as a result of child abuse, abandonment, or neglect shall report his or her suspicion to the appropriate medical examiner. The medical examiner shall accept the report for investigation and shall report his or her findings, in writing, to the local law enforcement agency, the appropriate state attorney, and the department. Autopsy reports maintained by the medical examiner are not subject to the confidentiality requirements provided for in s. 39.202.

Section 3. Present subsections (3) through (11) of section 39.2015, Florida Statutes, are redesignated as subsections (4) through (12), respectively, a new subsection (3) is added to that section, and subsection (1) and present subsection (3) of that section are amended, to read:

39.2015 Critical incident rapid response team.—

(1) As part of the department's quality assurance program, the department shall provide an immediate multiagency investigation of certain child deaths or other serious incidents, including, but not limited to, allegations of sexual abuse of a child as described in this chapter. The purpose of such investigation is to identify root causes and rapidly determine the need to change policies and practices related to child protection and child welfare.

(3) An immediate onsite investigation conducted by a

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critical incident rapid response team is required for all reports received by the department containing allegations of sexual abuse of a child as described in this chapter if the child or another child in his or her family was the subject of a verified report of suspected abuse or neglect during the previous 12 months. This includes any alleged incident involving a child who is in the custody of or under the protective supervision of the department.

~~(4)(3)~~ Each investigation shall be conducted by a multiagency team of at least five professionals with expertise in child protection, child welfare, and organizational management. The team may consist of employees of the department, community-based care lead agencies, Children's Medical Services, and community-based care provider organizations; faculty from the institute consisting of public and private universities offering degrees in social work established pursuant to s. 1004.615; or any other person with the required expertise. The team shall include, at a minimum, a Child Protection Team medical director, a representative from a child advocacy center pursuant to s. 39.3035 who has specialized training in sexual abuse, or a combination of such specialists if deemed appropriate. The majority of the team must reside in judicial circuits outside the location of the incident. The secretary shall appoint a team leader for each group assigned to an investigation.

Section 4. Paragraph (t) of subsection (2) of section 39.202, Florida Statutes, is amended, and paragraph (u) is added to that subsection, to read:

39.202 Confidentiality of reports and records in cases of

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child abuse or neglect.—

(2) Except as provided in subsection (4), access to such records, excluding the name of, or other identifying information with respect to, the reporter which shall be released only as provided in subsection (5), shall be granted only to the following persons, officials, and agencies:

(t) Persons with whom the department is seeking to place the child or to whom placement has been granted, including foster parents for whom an approved home study has been conducted, the designee of a licensed child-caring agency as defined in s. 39.01 ~~s. 39.01(41)~~, an approved relative or nonrelative with whom a child is placed pursuant to s. 39.402, preadoptive parents for whom a favorable preliminary adoptive home study has been conducted, adoptive parents, or an adoption entity acting on behalf of preadoptive or adoptive parents.

(u) Members of standing or select legislative committees, as provided under s. 11.143(2), within 7 business days, upon request of the member.

Section 5. Subsections (1), (3), and (4) of section 39.205, Florida Statutes, are amended, and subsection (11) is added to that section, to read:

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

(1) A person ~~who is required to report known or suspected child abuse, abandonment, or neglect and~~ who knowingly and willfully fails to report known or suspected child abuse, abandonment, or neglect ~~do so~~, or who knowingly and willfully prevents another person from doing so, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083,

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or s. 775.084. A judge subject to discipline pursuant to s. 12, Art. V of the Florida Constitution shall not be subject to criminal prosecution when the information was received in the course of official duties.

(3) Any Florida College System institution, state university, or nonpublic college, university, or school, as defined in s. 1000.21 or s. 1005.02, whose administrators ~~knowingly and willfully~~, upon receiving information from faculty, staff, or other institution employees, knowingly and willfully fail to report to the central abuse hotline pursuant to this chapter known or suspected child abuse, abandonment, or neglect committed on the property of the university, college, or school, or during an event or function sponsored by the university, college, or school, or who knowingly and willfully prevent another person from doing so, shall be subject to fines of \$1 million for each such failure.

(a) A Florida College System institution subject to a fine shall be assessed by the State Board of Education.

(b) A state university subject to a fine shall be assessed by the Board of Governors.

(c) A nonpublic college, university, or school subject to a fine shall be assessed by the Commission for Independent Education.

(4) Any Florida College System institution, state university, or nonpublic college, university, or school, as defined in s. 1000.21 or s. 1005.02, whose law enforcement agency fails to report to the central abuse hotline pursuant to this chapter known or suspected child abuse, abandonment, or neglect committed on the property of the university, college, or

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school, or during an event or function sponsored by the university, college, or school, shall be subject to fines of \$1 million for each such failure, assessed in the same manner as specified in subsection (3).

(11) This section may not be construed to remove or reduce the requirement of any person, including any employee of a school readiness program provider determined to be eligible under s. 1002.88; a private prekindergarten provider or a public school prekindergarten provider, as those terms are defined in s. 1002.51; a public K-12 school as described in s. 1000.04; a home education program or a private school, as those terms are defined in s. 1002.01; a Florida College System institution or a state university, as those terms are defined in s. 1000.21; a college as defined in s. 1005.02; or a school as defined in s. 1005.02, to directly report a suspected or actual case of child abuse, abandonment, or neglect or the sexual abuse of a child to the department's central abuse hotline pursuant to this chapter. A person required to report to the central abuse hotline is not relieved of the obligation by notifying his or her supervisor.

Section 6. Section 39.208, Florida Statutes, is created to read:

39.208 Cross-reporting child abuse, abandonment, or neglect and animal cruelty.—

(1) LEGISLATIVE FINDINGS AND INTENT.—

(a) The Legislature recognizes that animal cruelty of any kind is a type of interpersonal violence that often co-occurs with child abuse and other forms of family violence, including elder abuse and domestic violence. Early identification of animal cruelty is an important tool in safeguarding children

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639 from abuse and neglect, providing needed support to families,  
640 and protecting animals.

641 (b) The Legislature finds that education and training for  
642 child protective investigators and animal care and control  
643 personnel should include information on the link between the  
644 welfare of animals in the family and child safety and  
645 protection.

646 (c) Therefore, it is the intent of the Legislature to  
647 require reporting and cross-reporting protocols and  
648 collaborative training between child protective services and  
649 animal control services personnel to help protect the safety and  
650 well-being of children, their families, and their animals.

651 (2) RESPONSIBILITIES OF CHILD PROTECTIVE INVESTIGATORS.—

652 (a) Any person who is required to investigate child abuse,  
653 abandonment, or neglect under this chapter and who, while acting  
654 in his or her professional capacity or within the scope of  
655 employment, knows or has reasonable cause to suspect that animal  
656 cruelty has occurred at the same address shall report such  
657 knowledge or suspicion within 72 hours to his or her supervisor  
658 for submission to a local animal control agency. The report must  
659 include all of the following information:

660 1. A description of the animal and of the known or  
661 suspected animal cruelty.

662 2. The name and address of the animal's owner or keeper, if  
663 that information is available to the child protective  
664 investigator.

665 3. Any other information available to the child protective  
666 investigator which might assist an animal control officer or law  
667 enforcement officer in establishing the cause of the animal

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668 cruelty and the manner in which it occurred.

669 (b) A child protective investigator who makes a report  
670 under this section is presumed to have acted in good faith. An  
671 investigator acting in good faith who makes a report under this  
672 section or who cooperates in an investigation of suspected  
673 animal cruelty is immune from any civil or criminal liability or  
674 administrative penalty or sanction that might otherwise be  
675 incurred in connection with making the report or otherwise  
676 cooperating.

677 (3) RESPONSIBILITIES OF ANIMAL CONTROL OFFICERS.—Any person  
678 who is required to investigate animal cruelty under chapter 828  
679 and who, while acting in his or her professional capacity or  
680 within the scope of employment, knows or has reasonable cause to  
681 suspect that a child is abused, abandoned, or neglected by a  
682 parent, legal custodian, caregiver, or other person responsible  
683 for the child's welfare or that a child is in need of  
684 supervision and care and does not have a parent, a legal  
685 custodian, or a responsible adult relative immediately known and  
686 available to provide supervision and care to that child shall  
687 immediately report such knowledge or suspicion to the  
688 department's central abuse hotline.

689 (4) PENALTIES.—

690 (a) A child protective investigator who is required to  
691 report known or suspected animal cruelty under subsection (2)  
692 and who knowingly and willfully fails to do so commits a  
693 misdemeanor of the second degree, punishable as provided in s.  
694 775.082 or s. 775.083.

695 (b) An animal control officer who observes, in the course  
696 of his or her duties, known or suspected abuse, neglect, or

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697 abandonment of a child, who is required to report known or  
698 suspected abuse, neglect, or abandonment of a child under  
699 subsection (3), and who knowingly and willfully fails to report  
700 an incident of known or suspected abuse, abandonment, or  
701 neglect, as required by s. 39.201, is subject to the penalties  
702 imposed in s. 39.205.

703 (5) TRAINING.—The department, in consultation with the  
704 Florida Animal Control Association, shall develop or adapt and  
705 use already available training materials in a 1-hour training  
706 for all child protective investigators and animal control  
707 officers on the accurate and timely identification and reporting  
708 of child abuse, abandonment, or neglect or animal cruelty and  
709 the interconnectedness of such abuse and neglect. The department  
710 shall incorporate into the required training for child  
711 protective investigators information on the identification of  
712 harm to and neglect of animals and the relationship of such  
713 activities to child welfare case practice. The 1-hour training  
714 developed for animal control officers must include a component  
715 that advises such officers of the mandatory duty to report any  
716 known or suspected child abuse, abandonment, or neglect under  
717 this section and s. 39.201 and the criminal penalties associated  
718 with a violation of failing to report known or suspected child  
719 abuse, abandonment, or neglect which is punishable in accordance  
720 with s. 39.205.

721 (6) RULEMAKING.—The department shall adopt rules to  
722 implement this section.

723 Section 7. Subsections (1) and (2) of section 39.302,  
724 Florida Statutes, are amended to read:

725 39.302 Protective investigations of institutional child

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abuse, abandonment, or neglect.—

(1) The department shall conduct a child protective investigation of each report of institutional child abuse, abandonment, or neglect. Upon receipt of a report that alleges that an employee or agent of the department, or any other entity or person covered by s. 39.01(37) or (54), acting in an official capacity, has committed an act of child abuse, abandonment, or neglect, the department shall initiate a child protective investigation within the timeframe established under s. 39.101(2) ~~s. 39.201(5)~~ and notify the appropriate state attorney, law enforcement agency, and licensing agency, which shall immediately conduct a joint investigation, unless independent investigations are more feasible. When conducting investigations or having face-to-face interviews with the child, investigation visits shall be unannounced unless it is determined by the department or its agent that unannounced visits threaten the safety of the child. If a facility is exempt from licensing, the department shall inform the owner or operator of the facility of the report. Each agency conducting a joint investigation is entitled to full access to the information gathered by the department in the course of the investigation. A protective investigation must include an interview with the child's parent or legal guardian. The department shall make a full written report to the state attorney within 3 working days after making the oral report. A criminal investigation shall be coordinated, whenever possible, with the child protective investigation of the department. Any interested person who has information regarding the offenses described in this subsection may forward a statement to the

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state attorney as to whether prosecution is warranted and appropriate. Within 15 days after the completion of the investigation, the state attorney shall report the findings to the department and shall include in the report a determination of whether or not prosecution is justified and appropriate in view of the circumstances of the specific case.

(2)(a) If in the course of the child protective investigation, the department finds that a subject of a report, by continued contact with children in care, constitutes a threatened harm to the physical health, mental health, or welfare of the children, the department may restrict a subject's access to the children pending the outcome of the investigation. The department or its agent shall employ the least restrictive means necessary to safeguard the physical health, mental health, and welfare of the children in care. This authority shall apply only to child protective investigations in which there is some evidence that child abuse, abandonment, or neglect has occurred. A subject of a report whose access to children in care has been restricted is entitled to petition the circuit court for judicial review. The court shall enter written findings of fact based upon the preponderance of evidence that child abuse, abandonment, or neglect did occur and that the department's restrictive action against a subject of the report was justified in order to safeguard the physical health, mental health, and welfare of the children in care. The restrictive action of the department shall be effective for no more than 90 days without a judicial finding supporting the actions of the department.

(b) In an institutional investigation, the alleged perpetrator may be represented by an attorney, at his or her own

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784 expense, or may be accompanied by another person, if the  
785 attorney or the person executes an affidavit of understanding  
786 with the department and agrees to comply with the  
787 confidentiality requirements under s. 39.202. The absence of an  
788 attorney or an accompanying person does not prevent the  
789 department from proceeding with other aspects of the  
790 investigation, including interviews with other persons. In  
791 institutional child abuse cases when the institution is not  
792 operational and the child cannot otherwise be located, the  
793 investigation must commence immediately upon the resumption of  
794 operation. If requested by a state attorney or local law  
795 enforcement agency, the department shall furnish all  
796 investigative reports to such state attorney or agency.

797 (c) ~~(b)~~ Upon completion of the department's child protective  
798 investigation, the department may make application to the  
799 circuit court for continued restrictive action against any  
800 person necessary to safeguard the physical health, mental  
801 health, and welfare of the children in care.

802 Section 8. Present subsections (1), (2), and (3) of section  
803 39.3035, Florida Statutes, are redesignated as subsections (2),  
804 (3), and (4), respectively, a new subsection (1) is added to  
805 that section, and present subsection (3) is amended, to read:

806 39.3035 Child advocacy centers; standards; state funding.—

807 (1) Child advocacy centers are facilities that offer  
808 multidisciplinary services in a community-based, child-focused  
809 environment to children who are alleged to be victims of abuse  
810 or neglect. The children served by such centers may have  
811 experienced a variety of types of abuse or neglect, including,  
812 but not limited to, sexual abuse or severe physical abuse. The

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813 centers bring together, often in one location, child protective  
814 investigators, law enforcement, prosecutors, and medical and  
815 mental health professionals to provide a coordinated,  
816 comprehensive response to victims and their caregivers.

817 (4)~~(3)~~ A child advocacy center within this state may not  
818 receive the funds generated pursuant to s. 938.10, state or  
819 federal funds administered by a state agency, or any other funds  
820 appropriated by the Legislature unless all of the standards of  
821 subsection (2) ~~(1)~~ are met and the screening requirement of  
822 subsection (3) ~~(2)~~ is met. The Florida Network of Children's  
823 Advocacy Centers, Inc., shall be responsible for tracking and  
824 documenting compliance with subsections (2) and (3) ~~(1) and (2)~~  
825 for any of the funds it administers to member child advocacy  
826 centers.

827 (a) Funds for the specific purpose of funding children's  
828 advocacy centers shall be appropriated to the Department of  
829 Children and Families from funds collected from the additional  
830 court cost imposed in cases of certain crimes against minors  
831 under s. 938.10. Funds shall be disbursed to the Florida Network  
832 of Children's Advocacy Centers, Inc., as established under this  
833 section, for the purpose of providing community-based services  
834 that augment, but do not duplicate, services provided by state  
835 agencies.

836 (b) The board of directors of the Florida Network of  
837 Children's Advocacy Centers, Inc., shall retain 10 percent of  
838 all revenues collected to be used to match local contributions,  
839 at a rate not to exceed an equal match, in communities  
840 establishing children's advocacy centers. The board of directors  
841 may use up to 5 percent of the remaining funds to support the

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activities of the network office and must develop funding criteria and an allocation methodology that ensures an equitable distribution of remaining funds among network participants. The criteria and methodologies must take into account factors that include, but need not be limited to, the center's accreditation status with respect to the National Children's Alliance, the number of clients served, and the population of the area being served by the children's advocacy center.

(c) At the end of each fiscal year, each children's advocacy center receiving revenue as provided in this section must provide a report to the board of directors of the Florida Network of Children's Advocacy Centers, Inc., which reflects center expenditures, all sources of revenue received, and outputs that have been standardized and agreed upon by network members and the board of directors, such as the number of clients served, client demographic information, and number and types of services provided. The Florida Network of Children's Advocacy Centers, Inc., must compile reports from the centers and provide a report to the President of the Senate and the Speaker of the House of Representatives in August of each year.

Section 9. Section 39.4092, Florida Statutes, is created to read:

39.4092 Multidisciplinary legal representation model  
program for parents of children in the dependency system.—

(1) LEGISLATIVE FINDINGS.—

(a) The Legislature finds that the use of a specialized  
team that includes a lawyer, a social worker, and a parent-peer  
specialist, also known as a multidisciplinary legal  
representation model, in dependency judicial matters is

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effective in reducing safety risks to children and providing families with better outcomes, such as significantly reducing the time such children spend in out-of-home care and achieving permanency more quickly.

(b) The Legislature finds that parents in dependency court often suffer from multiple challenges, such as mental illness, substance use disorder, domestic violence and other trauma, unstable housing, and unemployment. Such issues are often a contributing factor to children experiencing instability or safety risks. While these issues may result in legal involvement or require legal representation, addressing such underlying challenges in a manner that achieves stability often falls within the core functions of the practice of social work.

(c) The Legislature also finds that social work professionals have a unique skill set, including client assessment and clinical knowledge of family dynamics. This unique skill set allows these professionals to interact and engage with clients in meaningful and unique ways that are distinct from the ways in which the clients interact with attorneys or other professional staff involved with dependency matters. Additionally, social work professionals are skilled at quickly connecting families facing such crises to resources that can address the specific underlying challenges.

(d) The Legislature finds that there is a great benefit to using parent-peer specialists in the dependency system, which allows parents who have successfully navigated the dependency system and have been successfully reunified with their children to be paired with parents whose children are currently involved in the dependency system. By working with someone who has

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900 personally lived the experience of overcoming great personal  
901 crisis, parents currently involved in the dependency system have  
902 a greater ability to address the underlying challenges that  
903 resulted in the instability and safety risk to the children,  
904 provide a safe and stable home environment, and be successfully  
905 reunified.

906 (e) The Legislature further finds that current federal  
907 provisions authorize the reimbursement of half the cost of  
908 attorneys for parents and children in eligible cases, whereas  
909 such funds were formerly restricted to foster care  
910 administrative costs.

911 (f) The Legislature finds it is necessary to encourage and  
912 facilitate the use of a multidisciplinary legal representation  
913 model for parents and their children in order to improve  
914 outcomes for those families involved in the dependency system  
915 and provide the families who find themselves in a crisis the  
916 best opportunity to be successful in creating safe and stable  
917 homes for their children.

918 (2) ESTABLISHMENT.—Each office of criminal conflict and  
919 civil regional counsel established under s. 27.511 may establish  
920 a multidisciplinary legal representation model program to serve  
921 families who are in the dependency system. The department shall  
922 collaborate with the office of criminal conflict and civil  
923 regional counsel to implement a program and provide funding with  
924 available federal matching resources for such multidisciplinary  
925 legal representation model programs for eligible families  
926 involved in the dependency system.

927 (3) PROGRAM REQUIREMENTS.—Any multidisciplinary legal  
928 representation model program established must, at a minimum:

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929 (a) Use a team that consists of a lawyer, a forensic social  
930 worker, and a parent-peer specialist. For purposes of this  
931 section, a "parent-peer specialist" means a person who has:

932 1. Previously had his or her child involved in the  
933 dependency system and removed from his or her care to be placed  
934 in out-of-home care;

935 2. Been successfully reunified with the child for more than  
936 2 years; and

937 3. Received specialized training to become a parent-peer  
938 specialist.

939 (b) Provide any necessary cost-sharing agreements to  
940 maximize financial resources and enable access to available  
941 federal Title IV-E matching funding.

942 (c) Provide specialized training and support for attorneys,  
943 social workers, and parent-peer specialists involved in the  
944 model program.

945 (d) Collect uniform data on each child whose parent is  
946 served by the program and ensure that reporting of data is  
947 conducted through the child's unique FINS/fin identification  
948 number, if applicable.

949 (e) Develop consistent operational program policies and  
950 procedures throughout each region that establishes the model  
951 program.

952 (f) Obtain agreements with universities relating to  
953 approved placements for social work students to ensure the  
954 placement of social workers in the program.

955 (g) Execute conflict of interest agreements with each team  
956 member.

957 (4) REPORTING.—

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958       (a) Each regional office of the office of criminal conflict  
959 and civil regional counsel which establishes a multidisciplinary  
960 legal representation model program that meets the requirements  
961 of this section must provide an annual report to the Office of  
962 Program Policy Analysis and Government Accountability. The  
963 annual report must use the uniform data collected on each unique  
964 child whose parents are served by the program and must detail,  
965 at a minimum, all of the following:

966       1. Reasons for the original involvement of the family in  
967 the dependency system.

968       2. Length of time it takes to achieve a permanency goal for  
969 the children whose parents are served by the program.

970       3. Frequency of each type of permanency goal achieved by  
971 parents that are served by the program.

972       4. Rate of re-abuse or re-removal of children whose parents  
973 are served by the program.

974       5. Any other relevant factors that tend to show the impact  
975 of the use of such multidisciplinary legal representation model  
976 programs on the outcomes for children in the dependency system,  
977 provided each region that has established such a program agrees  
978 to uniform additional factors and how to collect data on such  
979 additional factors in the annual report.

980       (b) By October 1, 2022, and annually thereafter, the annual  
981 report from each regional counsel office must be submitted to  
982 the Office of Program Policy Analysis and Government  
983 Accountability, which shall compile the results of such reports  
984 and compare the reported outcomes from the multidisciplinary  
985 legal representation model program to known outcomes of children  
986 in the dependency system whose parents are not served by a

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multidisciplinary legal representation model program. By  
December 1, 2022, and annually thereafter, the Office of Program  
Policy Analysis and Government Accountability must submit a  
report to the Governor, the President of the Senate, and the  
Speaker of the House of Representatives.

(5) RULEMAKING.—The office of criminal conflict and civil  
regional counsel may adopt rules to administer this section.

Section 10. Section 409.1415, Florida Statutes, is amended  
to read:

409.1415 Parenting partnerships for children in out-of-home  
care; resources.—

(1) LEGISLATIVE FINDINGS AND INTENT.—

(a) The Legislature finds that reunification is the most  
common outcome for children in out-of-home care and that  
caregivers are one of the most important resources to help  
children reunify with their families.

(b) The Legislature further finds that the most successful  
caregivers understand that their role goes beyond supporting the  
children in their care to supporting the children's families, as  
a whole, and that children and their families benefit when  
caregivers and birth or legal parents are supported by an agency  
culture that encourages a meaningful partnership between them  
and provides quality support.

(c) Therefore, in keeping with national trends, it is the  
intent of the Legislature to bring caregivers and birth or legal  
parents together in order to build strong relationships that  
lead to more successful reunifications and more stability for  
children being fostered in out-of-home care.

(2) PARENTING PARTNERSHIPS.—

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(a) In order to ensure that children in out-of-home care achieve legal permanency as soon as possible, to reduce the likelihood that they will reenter care or that other children in the family are abused or neglected or enter out-of-home care, and to ensure that families are fully prepared to resume custody of their children, the department and community-based care lead agencies shall develop and support relationships between caregivers and birth or legal parents of children in out-of-home care, to the extent that it is safe and in the child's best interest, by:

1. Facilitating telephone communication between the caregiver and the birth or legal parent as soon as possible after the child is placed in the home of the caregiver.

2. Facilitating and attending an in-person meeting between the caregiver and the birth or legal parent as soon as possible after the child is placed in the home of the caregiver.

3. Developing and supporting a plan for the birth or legal parent to participate in medical appointments, educational and extracurricular activities, and other events involving the child.

4. Facilitating participation by the caregiver in visitation between the birth or legal parent and the child.

5. Involving the caregiver in planning meetings with the birth or legal parent.

6. Developing and implementing effective transition plans for the child's return home or placement in any other living environment.

7. Supporting continued contact between the caregiver and the child after the child returns home or moves to another

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permanent living arrangement.

(b) To ensure that a child in out-of-home care receives support for healthy development which gives the child the best possible opportunity for success, caregivers, birth or legal parents, the department, and the community-based care lead agency shall work cooperatively in a respectful partnership by adhering to the following requirements:

1. All members of the partnership must interact and communicate professionally with one another, must share all relevant information promptly, and must respect the confidentiality of all information related to the child and his or her family.

2. The caregiver; the birth or legal parent; the child, if appropriate; the department; and the community-based care lead agency must participate in developing a case plan for the child and the birth or legal parent. All members of the team must work together to implement the case plan. The caregiver must have the opportunity to participate in all team meetings or court hearings related to the child's care and future plans. The department and community-based care lead agency must support and facilitate caregiver participation through timely notification of such meetings and hearings and provide alternative methods for participation for a caregiver who cannot be physically present at a meeting or hearing.

3. A caregiver must strive to provide, and the department and community-based care lead agency must support, excellent parenting, which includes:

a. A loving commitment to the child and the child's safety and well-being.

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b. Appropriate supervision and positive methods of discipline.

c. Encouragement of the child's strengths.

d. Respect for the child's individuality and likes and dislikes.

e. Providing opportunities to develop the child's interests and skills.

f. Being aware of the impact of trauma on behavior.

g. Facilitating equal participation of the child in family life.

h. Involving the child within his or her community.

i. A commitment to enable the child to lead a normal life.

4. A child in out-of-home care must be placed with a caregiver who has the ability to care for the child, is willing to accept responsibility for providing care, and is willing and able to learn about and be respectful of the child's culture, religion, and ethnicity; special physical or psychological needs; circumstances unique to the child; and family relationships. The department, the community-based care lead agency, and other agencies must provide a caregiver with all available information necessary to assist the caregiver in determining whether he or she is able to appropriately care for a particular child.

5. A caregiver must have access to and take advantage of all training that he or she needs to improve his or her skills in parenting a child who has experienced trauma due to neglect, abuse, or separation from home; to meet the child's special needs; and to work effectively with child welfare agencies, the courts, the schools, and other community and governmental

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1103 agencies.

1104 6. The department and community-based care lead agency must  
1105 provide a caregiver with the services and support they need to  
1106 enable them to provide quality care for the child pursuant to  
1107 subsection (3).

1108 7. Once a caregiver accepts the responsibility of caring  
1109 for a child, the child may be removed from the home of the  
1110 caregiver only if:

1111 a. The caregiver is clearly unable to safely or legally  
1112 care for the child;

1113 b. The child and the birth or legal parent are reunified;

1114 c. The child is being placed in a legally permanent home in  
1115 accordance with a case plan or court order; or

1116 d. The removal is demonstrably in the best interests of the  
1117 child.

1118 8. If a child must leave the caregiver's home for one of  
1119 the reasons stated in subparagraph 7., and in the absence of an  
1120 unforeseeable emergency, the transition must be accomplished  
1121 according to a plan that involves cooperation and sharing of  
1122 information among all persons involved, respects the child's  
1123 developmental stage and psychological needs, ensures the child  
1124 has all of his or her belongings, allows for a gradual  
1125 transition from the caregiver's home, and, if possible, allows  
1126 for continued contact with the caregiver after the child leaves.

1127 9. When the case plan for a child includes reunification,  
1128 the caregiver, the department, and the community-based care lead  
1129 agency must work together to assist the birth or legal parent in  
1130 improving his or her ability to care for and protect the child  
1131 and to provide continuity for the child.

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1132 10. A caregiver must respect and support the child's ties  
1133 to his or her birth or legal family, including parents,  
1134 siblings, and extended family members, and must assist the child  
1135 in maintaining allowable visitation and other forms of  
1136 communication. The department and community-based care lead  
1137 agency must provide a caregiver with the information, guidance,  
1138 training, and support necessary for fulfilling this  
1139 responsibility.

1140 11. A caregiver must work in partnership with the  
1141 department and community-based care lead agency to obtain and  
1142 maintain records that are important to the child's well-being,  
1143 including, but not limited to, child resource records, medical  
1144 records, school records, photographs, and records of special  
1145 events and achievements.

1146 12. A caregiver must advocate for a child in his or her  
1147 care with the child welfare system, the court, and community  
1148 agencies, including schools, child care providers, health and  
1149 mental health providers, and employers. The department and  
1150 community-based care lead agency must support a caregiver in  
1151 advocating for a child and may not retaliate against the  
1152 caregiver as a result of this advocacy.

1153 13. A caregiver must be as fully involved in the child's  
1154 medical, psychological, and dental care as he or she would be  
1155 for his or her biological child. The department and community-  
1156 based care lead agency must support and facilitate such  
1157 participation. The caregiver, the department, and the community-  
1158 based care lead agency must share information with each other  
1159 about the child's health and well-being.

1160 14. A caregiver must support a child's school success,

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including, when possible, maintaining school stability by participating in school activities and meetings. The department and community-based care lead agency must facilitate this participation and be informed of the child's progress and needs.

15. A caregiver must ensure that a child in his or her care who is between 13 and 17 years of age learns and masters independent living skills. The department shall make available the training for caregivers developed in collaboration with the Florida Foster and Adoptive Parent Association and the Quality Parenting Initiative on the life skills necessary for children in out-of-home care.

16. The case manager and case manager supervisor must mediate disagreements that occur between a caregiver and the birth or legal parent.

(c) An employee of a residential group home must meet the background screening requirements under s. 39.0138 and the level 2 screening standards for screening under chapter 435. An employee of a residential group home who works directly with a child as a caregiver must meet, at a minimum, the same education, training, background, and other screening requirements as caregivers in family foster homes licensed as level II under s. 409.175(5).

(3) RESOURCES AND SUPPORT FOR CAREGIVERS.—

(a) Foster parents.—The department shall establish the Foster Information Center to connect current and former foster parents, known as foster parent advocates, to prospective and current foster parents in order to provide information and services, including, but not limited to:

1. Navigating the application and approval process,

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including timelines for each, preparing for transitioning from approval for placement to accepting a child into the home, and learning about and connecting with any available resources in the prospective foster parent's community.

2. Accessing available resources and services, including those from the Florida Foster and Adoptive Parent Association, for any current foster parents who need additional assistance.

3. Providing information specific to a foster parent's individual needs.

4. Providing immediate assistance when needed.

(b) Kinship caregivers.—

1. A community-based care lead agency shall provide a caregiver with resources and supports that are available and discuss whether the caregiver meets any eligibility criteria. If the caregiver is unable to access resources and supports beneficial to the well-being of the child, the community-based care lead agency or case management agency must assist the caregiver in initiating access to resources by:

a. Providing referrals to kinship navigation services.

b. Assisting with linkages to community resources and completion of program applications.

c. Scheduling appointments.

d. Initiating contact with community service providers.

2. The community-based care lead agency shall provide each caregiver with a telephone number to call during normal working hours whenever immediate assistance is needed and the child's caseworker is unavailable. The telephone number must be staffed and answered by individuals possessing the knowledge and authority necessary to assist caregivers.

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1219       ~~(4)(3)~~ RULEMAKING.—The department shall adopt rules  
1220 necessary to administer this section.

1221       Section 11. Section 409.1453, Florida Statutes, is  
1222 repealed.

1223       Section 12. Section 409.1753, Florida Statutes, is  
1224 repealed.

1225       Section 13. The Legislature recognizes that animal cruelty  
1226 of any kind is a type of interpersonal violence and often co-  
1227 occurs with child abuse and other forms of family violence,  
1228 including elder abuse and domestic violence, and that early  
1229 identification of animal cruelty, including animal sexual abuse,  
1230 serves the purpose of providing an important tool to safeguard  
1231 children from abuse and neglect, to provide needed support to  
1232 families, and to protect animals.

1233       Section 14. Section 827.071, Florida Statutes, is amended  
1234 to read:

1235       827.071 Sexual performance by a child; penalties.—

1236       (1) As used in this section, the following definitions  
1237 shall apply:

1238       (a) "Deviate sexual intercourse" means sexual conduct  
1239 between persons not married to each other consisting of contact  
1240 between the penis and the anus, the mouth and the penis, or the  
1241 mouth and the vulva.

1242       (b) "Intentionally view" means to deliberately,  
1243 purposefully, and voluntarily view. Proof of intentional viewing  
1244 requires establishing more than a single image, motion picture,  
1245 exhibition, show, image, data, computer depiction,  
1246 representation, or other presentation over any period of time.

1247       (c) "Performance" means any play, motion picture,

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1248 photograph, or dance or any other visual representation  
1249 exhibited before an audience.

1250 (d) "Promote" means to procure, manufacture, issue, sell,  
1251 give, provide, lend, mail, deliver, transfer, transmute,  
1252 publish, distribute, circulate, disseminate, present, exhibit,  
1253 or advertise or to offer or agree to do the same.

1254 (e) "Sadomasochistic abuse" means flagellation or torture  
1255 by or upon a person, or the condition of being fettered, bound,  
1256 or otherwise physically restrained, for the purpose of deriving  
1257 sexual satisfaction from inflicting harm on another or receiving  
1258 such harm oneself.

1259 (f) "Sexual battery" means oral, anal, or vaginal  
1260 penetration by, or union with, the sexual organ of another or  
1261 the anal or vaginal penetration of another by any other object;  
1262 however, "sexual battery" does not include an act done for a  
1263 bona fide medical purpose.

1264 (g) "Sexual contact with an animal" has the same meaning as  
1265 in s. 828.126 when an adult encourages or forces such act to be  
1266 committed between a child and an animal ~~bestiality" means any~~  
1267 ~~sexual act between a person and an animal involving the sex~~  
1268 ~~organ of the one and the mouth, anus, or vagina of the other.~~

1269 (h) "Sexual conduct" means actual or simulated sexual  
1270 intercourse, deviate sexual intercourse, sexual contact with an  
1271 animal ~~bestiality~~, masturbation, or sadomasochistic abuse;  
1272 actual lewd exhibition of the genitals; actual physical contact  
1273 with a person's clothed or unclothed genitals, pubic area,  
1274 buttocks, or, if such person is a female, breast, with the  
1275 intent to arouse or gratify the sexual desire of either party;  
1276 or any act or conduct which constitutes sexual battery or

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1277 simulates that sexual battery is being or will be committed. A  
1278 mother's breastfeeding of her baby does not under any  
1279 circumstance constitute "sexual conduct."

1280 (i) "Sexual performance" means any performance or part  
1281 thereof which includes sexual conduct by a child of less than 18  
1282 years of age.

1283 (j) "Simulated" means the explicit depiction of conduct set  
1284 forth in paragraph (h) which creates the appearance of such  
1285 conduct and which exhibits any uncovered portion of the breasts,  
1286 genitals, or buttocks.

1287 (2) A person is guilty of the use of a child in a sexual  
1288 performance if, knowing the character and content thereof, he or  
1289 she employs, authorizes, or induces a child less than 18 years  
1290 of age to engage in a sexual performance or, being a parent,  
1291 legal guardian, or custodian of such child, consents to the  
1292 participation by such child in a sexual performance. Whoever  
1293 violates this subsection is guilty of a felony of the second  
1294 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
1295 775.084.

1296 (3) A person is guilty of promoting a sexual performance by  
1297 a child when, knowing the character and content thereof, he or  
1298 she produces, directs, or promotes any performance which  
1299 includes sexual conduct by a child less than 18 years of age.  
1300 Whoever violates this subsection is guilty of a felony of the  
1301 second degree, punishable as provided in s. 775.082, s. 775.083,  
1302 or s. 775.084.

1303 (4) It is unlawful for any person to possess with the  
1304 intent to promote any photograph, motion picture, exhibition,  
1305 show, representation, or other presentation which, in whole or

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in part, includes any sexual conduct by a child. The possession of three or more copies of such photograph, motion picture, representation, or presentation is prima facie evidence of an intent to promote. Whoever violates this subsection is guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(5)(a) It is unlawful for any person to knowingly possess, control, or intentionally view a photograph, motion picture, exhibition, show, representation, image, data, computer depiction, or other presentation which, in whole or in part, he or she knows to include any sexual conduct by a child. The possession, control, or intentional viewing of each such photograph, motion picture, exhibition, show, image, data, computer depiction, representation, or presentation is a separate offense. If such photograph, motion picture, exhibition, show, representation, image, data, computer depiction, or other presentation includes sexual conduct by more than one child, then each such child in each such photograph, motion picture, exhibition, show, representation, image, data, computer depiction, or other presentation that is knowingly possessed, controlled, or intentionally viewed is a separate offense. A person who violates this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) This subsection does not apply to material possessed, controlled, or intentionally viewed as part of a law enforcement investigation.

(6) Prosecution of any person for an offense under this section shall not prohibit prosecution of that person in this

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state for a violation of any law of this state, including a law providing for greater penalties than prescribed in this section or any other crime punishing the sexual performance or the sexual exploitation of children.

Section 15. Section 828.126, Florida Statutes, is amended to read:

828.126 Sexual activities involving animals.—

(1) As used in this section, the term:

(a) "Animal husbandry" includes the day-to-day care of, selective breeding of, and the raising of livestock that is commonly defined as domesticated animals or animals raised for agricultural purposes and that is located on land used for bona fide agricultural purposes as defined in s. 193.461(3)(b)

~~"Sexual conduct" means any touching or fondling by a person, either directly or through clothing, of the sex organs or anus of an animal or any transfer or transmission of semen by the person upon any part of the animal for the purpose of sexual gratification or arousal of the person.~~

(b) "Sexual contact with an animal" means any act committed between a person and an animal for the purpose of sexual gratification, abuse, or financial gain which involves:

1. Contact between the sex organ or anus of one and the mouth, sex organ, or anus of the other;

2. The fondling of the sex organ or anus of an animal; or

3. The insertion, however slight, of any part of the body of a person or any object into the vaginal or anal opening of an animal, or the insertion of any part of the body of an animal into the vaginal or anal opening of a person ~~contact, however slight, between the mouth, sex organ, or anus of a person and~~

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~~the sex organ or anus of an animal, or any penetration, however slight, of any part of the body of the person into the sex organ or anus of an animal, or any penetration of the sex organ or anus of the person into the mouth of the animal, for the purpose of sexual gratification or sexual arousal of the person.~~

(2) A person may not:

(a) Knowingly engage in any ~~sexual conduct or~~ sexual contact with an animal;

(b) Knowingly cause, aid, or abet another person to engage in any ~~sexual conduct or~~ sexual contact with an animal;

(c) Knowingly permit any ~~sexual conduct or~~ sexual contact with an animal to be conducted on any premises under his or her charge or control; or

(d) Knowingly organize, promote, conduct, ~~advertise,~~ aid, abet, participate in as an observer, or advertise, offer, solicit, or accept an offer of an animal for the purpose of sexual contact with such animal, or perform any service in the furtherance of an act involving any ~~sexual conduct or~~ sexual contact with an animal ~~for a commercial or recreational purpose.~~

(e) Knowingly film, distribute, or possess pornographic images of a person and an animal engaged in any of the activities prohibited by this section.

(3) A person who violates this section commits a felony of the third ~~misdemeanor of the first~~ degree, punishable as provided in s. 775.082, ~~or~~ s. 775.083, or s. 775.084.

(4) In addition to other penalties prescribed by law, the court shall issue an order prohibiting a person convicted under this section from harboring, owning, possessing, or exercising control over any animal; from residing in any household where

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animals are present; and from engaging in an occupation, whether paid or unpaid, or participating in a volunteer position at any establishment where animals are present. The order may be effective for up to 5 years from the date of the conviction regardless of whether adjudication is withheld.

(5)~~(4)~~ This section does not apply to accepted animal husbandry practices, accepted conformation judging practices, ~~or~~ accepted veterinary medical practices, or artificial insemination of an animal for reproductive purposes.

Section 16. Paragraph (a) of subsection (4) of section 828.27, Florida Statutes, is amended to read:

828.27 Local animal control or cruelty ordinances; penalty.—

(4)(a)1. County-employed animal control officers must, and municipally employed animal control officers may, successfully complete a 40-hour minimum standards training course. Such course must include, but is not limited to, training for: animal cruelty investigations, search and seizure, animal handling, courtroom demeanor, and civil citations. The course curriculum must be approved by the Florida Animal Control Association. An animal control officer who successfully completes such course shall be issued a certificate indicating that he or she has received a passing grade.

2. County-employed and municipally employed animal control officers must successfully complete the 1-hour training course developed by the Department of Children and Families and the Florida Animal Control Association pursuant to s. 39.208(5). Animal control officers must be provided with opportunities to attend the training during their normal work hours.

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~~3.2.~~ Any animal control officer who is authorized before January 1, 1990, by a county or municipality to issue citations is not required to complete the minimum standards training course.

~~4.3.~~ In order to maintain valid certification, every 2 years each certified animal control officer must complete 4 hours of postcertification continuing education training. Such training may include, but is not limited to, training for: animal cruelty investigations, search and seizure, animal handling, courtroom demeanor, and civil citations.

Section 17. Paragraph (f) of subsection (3) of section 921.0022, Florida Statutes, is amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

(f) LEVEL 6

| Florida<br>Statute | Felony<br>Degree | Description                                                   |
|--------------------|------------------|---------------------------------------------------------------|
| 316.027(2)(b)      | 2nd              | Leaving the scene of a crash involving serious bodily injury. |
| 316.193(2)(b)      | 3rd              | Felony DUI, 4th or subsequent conviction.                     |
| 400.9935(4)(c)     | 2nd              | Operating a clinic, or offering services                      |

|      |               |     |                                                                                                        |
|------|---------------|-----|--------------------------------------------------------------------------------------------------------|
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|      |               |     | requiring licensure,<br>without a license.                                                             |
| 1442 | 499.0051(2)   | 2nd | Knowing forgery of<br>transaction history,<br>transaction information,<br>or transaction<br>statement. |
| 1443 | 499.0051(3)   | 2nd | Knowing purchase or<br>receipt of prescription<br>drug from unauthorized<br>person.                    |
| 1444 | 499.0051(4)   | 2nd | Knowing sale or transfer<br>of prescription drug to<br>unauthorized person.                            |
| 1445 | 775.0875(1)   | 3rd | Taking firearm from law<br>enforcement officer.                                                        |
| 1446 | 784.021(1)(a) | 3rd | Aggravated assault;<br>deadly weapon without<br>intent to kill.                                        |
| 1447 | 784.021(1)(b) | 3rd | Aggravated assault;<br>intent to commit felony.                                                        |
| 1448 | 784.041       | 3rd | Felony battery; domestic                                                                               |

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|      |                 |     |                                                                              |
|------|-----------------|-----|------------------------------------------------------------------------------|
|      |                 |     | battery by<br>strangulation.                                                 |
| 1449 | 784.048 (3)     | 3rd | Aggravated stalking;<br>credible threat.                                     |
| 1450 | 784.048 (5)     | 3rd | Aggravated stalking of<br>person under 16.                                   |
| 1451 | 784.07 (2) (c)  | 2nd | Aggravated assault on<br>law enforcement officer.                            |
| 1452 | 784.074 (1) (b) | 2nd | Aggravated assault on<br>sexually violent<br>predators facility<br>staff.    |
| 1453 | 784.08 (2) (b)  | 2nd | Aggravated assault on a<br>person 65 years of age<br>or older.               |
| 1454 | 784.081 (2)     | 2nd | Aggravated assault on<br>specified official or<br>employee.                  |
| 1455 | 784.082 (2)     | 2nd | Aggravated assault by<br>detained person on<br>visitor or other<br>detainee. |

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1456

784.083 (2)

2nd

Aggravated assault on  
code inspector.

1457

787.02 (2)

3rd

False imprisonment;  
restraining with purpose  
other than those in s.  
787.01.

1458

790.115 (2) (d)

2nd

Discharging firearm or  
weapon on school  
property.

1459

790.161 (2)

2nd

Make, possess, or throw  
destructive device with  
intent to do bodily harm  
or damage property.

1460

790.164 (1)

2nd

False report concerning  
bomb, explosive, weapon  
of mass destruction, act  
of arson or violence to  
state property, or use  
of firearms in violent  
manner.

1461

790.19

2nd

Shooting or throwing  
deadly missiles into  
dwellings, vessels, or

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|      |                 |     |                                                                                                                             |
|------|-----------------|-----|-----------------------------------------------------------------------------------------------------------------------------|
|      |                 |     | vehicles.                                                                                                                   |
| 1462 | 794.011 (8) (a) | 3rd | Solicitation of minor to participate in sexual activity by custodial adult.                                                 |
| 1463 | 794.05 (1)      | 2nd | Unlawful sexual activity with specified minor.                                                                              |
| 1464 | 800.04 (5) (d)  | 3rd | Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years of age; offender less than 18 years. |
| 1465 | 800.04 (6) (b)  | 2nd | Lewd or lascivious conduct; offender 18 years of age or older.                                                              |
| 1466 | 806.031 (2)     | 2nd | Arson resulting in great bodily harm to firefighter or any other person.                                                    |
| 1467 | 810.02 (3) (c)  | 2nd | Burglary of occupied structure; unarmed; no assault or battery.                                                             |

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1468

810.145 (8) (b)

2nd

Video voyeurism; certain  
minor victims; 2nd or  
subsequent offense.

1469

812.014 (2) (b) 1.

2nd

Property stolen \$20,000  
or more, but less than  
\$100,000, grand theft in  
2nd degree.

1470

812.014 (6)

2nd

Theft; property stolen  
\$3,000 or more;  
coordination of others.

1471

812.015 (9) (a)

2nd

Retail theft; property  
stolen \$750 or more;  
second or subsequent  
conviction.

1472

812.015 (9) (b)

2nd

Retail theft; aggregated  
property stolen within  
30 days is \$3,000 or  
more; coordination of  
others.

1473

812.13 (2) (c)

2nd

Robbery, no firearm or  
other weapon (strong-arm  
robbery).

1474

|      |                 |     |                                                                                              |
|------|-----------------|-----|----------------------------------------------------------------------------------------------|
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| 1475 | 817.4821 (5)    | 2nd | Possess cloning paraphernalia with intent to create cloned cellular telephones.              |
| 1476 | 817.505 (4) (b) | 2nd | Patient brokering; 10 or more patients.                                                      |
| 1477 | 825.102 (1)     | 3rd | Abuse of an elderly person or disabled adult.                                                |
| 1478 | 825.102 (3) (c) | 3rd | Neglect of an elderly person or disabled adult.                                              |
| 1479 | 825.1025 (3)    | 3rd | Lewd or lascivious molestation of an elderly person or disabled adult.                       |
| 1480 | 825.103 (3) (c) | 3rd | Exploiting an elderly person or disabled adult and property is valued at less than \$10,000. |
| 1481 | 827.03 (2) (c)  | 3rd | Abuse of a child.                                                                            |
|      | 827.03 (2) (d)  | 3rd | Neglect of a child.                                                                          |

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1482

827.071(2) & (3)

2nd

Use or induce a child in a sexual performance, or promote or direct such performance.

1483

828.126

3rd

Sexual activities involving animals.

1484

836.05

2nd

Threats; extortion.

1485

836.10

2nd

Written threats to kill, do bodily injury, or conduct a mass shooting or an act of terrorism.

1486

843.12

3rd

Aids or assists person to escape.

1487

847.011

3rd

Distributing, offering to distribute, or possessing with intent to distribute obscene materials depicting minors.

1488

847.012

3rd

Knowingly using a minor in the production of materials harmful to

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|      |                |     |                                                                                                                                                                                    |
|------|----------------|-----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|      |                |     | minors.                                                                                                                                                                            |
| 1489 | 847.0135(2)    | 3rd | Facilitates sexual<br>conduct of or with a<br>minor or the visual<br>depiction of such<br>conduct.                                                                                 |
| 1490 | 914.23         | 2nd | Retaliation against a<br>witness, victim, or<br>informant, with bodily<br>injury.                                                                                                  |
| 1491 | 944.35(3)(a)2. | 3rd | Committing malicious<br>battery upon or<br>inflicting cruel or<br>inhuman treatment on an<br>inmate or offender on<br>community supervision,<br>resulting in great<br>bodily harm. |
| 1492 | 944.40         | 2nd | Escapes.                                                                                                                                                                           |
| 1493 | 944.46         | 3rd | Harboring, concealing,<br>aiding escaped<br>prisoners.                                                                                                                             |
| 1494 | 944.47(1)(a)5. | 2nd | Introduction of                                                                                                                                                                    |

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contraband (firearm,  
weapon, or explosive)  
into correctional  
facility.

951.22(1)(i)

3rd

Firearm or weapon  
introduced into county  
detention facility.

Section 18. Paragraph (c) is added to subsection (6) of  
1012.795, Florida Statutes, to read:

1012.795 Education Practices Commission; authority to  
discipline.—

(6)

(c) If the Department of Education determines that any  
instructional personnel or school administrator, as defined in  
s. 1012.01(2) or (3), respectively, has knowingly failed to  
report known or suspected child abuse as required pursuant to s.  
39.201, and the Education Practices Commission has issued a  
final order for a previous instance of failure to report by the  
individual, the Education Practices Commission shall, at a  
minimum, suspend the educator certificate of the instructional  
personnel or school administrator for a period of not less than  
1 year.

Section 19. Subsection (6) of section 39.301, Florida  
Statutes, is amended to read:

39.301 Initiation of protective investigations.—

(6) Upon commencing an investigation under this part, if a  
report was received from a reporter under s. 39.201(1)(a)2. ~~s.~~

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1517 ~~39.201(1)(b)~~, the protective investigator must provide his or  
1518 her contact information to the reporter within 24 hours after  
1519 being assigned to the investigation. The investigator must also  
1520 advise the reporter that he or she may provide a written summary  
1521 of the report made to the central abuse hotline to the  
1522 investigator which shall become a part of the electronic child  
1523 welfare case file.

1524 Section 20. Paragraph (d) of subsection (4) of section  
1525 119.071, Florida Statutes, is amended to read:

1526 119.071 General exemptions from inspection or copying of  
1527 public records.—

1528 (4) AGENCY PERSONNEL INFORMATION.—

1529 (d)1. For purposes of this paragraph, the term:

1530 a. "Home addresses" means the dwelling location at which an  
1531 individual resides and includes the physical address, mailing  
1532 address, street address, parcel identification number, plot  
1533 identification number, legal property description, neighborhood  
1534 name and lot number, GPS coordinates, and any other descriptive  
1535 property information that may reveal the home address.

1536 b. "Telephone numbers" includes home telephone numbers,  
1537 personal cellular telephone numbers, personal pager telephone  
1538 numbers, and telephone numbers associated with personal  
1539 communications devices.

1540 2.a. The home addresses, telephone numbers, dates of birth,  
1541 and photographs of active or former sworn law enforcement  
1542 personnel or of active or former civilian personnel employed by  
1543 a law enforcement agency, including correctional and  
1544 correctional probation officers, personnel of the Department of  
1545 Children and Families whose duties include the investigation of

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1546 abuse, neglect, exploitation, fraud, theft, or other criminal  
1547 activities, personnel of the Department of Health whose duties  
1548 are to support the investigation of child abuse or neglect, and  
1549 personnel of the Department of Revenue or local governments  
1550 whose responsibilities include revenue collection and  
1551 enforcement or child support enforcement; the names, home  
1552 addresses, telephone numbers, photographs, dates of birth, and  
1553 places of employment of the spouses and children of such  
1554 personnel; and the names and locations of schools and day care  
1555 facilities attended by the children of such personnel are exempt  
1556 from s. 119.07(1) and s. 24(a), Art. I of the State  
1557 Constitution.

1558       b. The home addresses, telephone numbers, dates of birth,  
1559 and photographs of current or former nonsworn investigative  
1560 personnel of the Department of Financial Services whose duties  
1561 include the investigation of fraud, theft, workers' compensation  
1562 coverage requirements and compliance, other related criminal  
1563 activities, or state regulatory requirement violations; the  
1564 names, home addresses, telephone numbers, dates of birth, and  
1565 places of employment of the spouses and children of such  
1566 personnel; and the names and locations of schools and day care  
1567 facilities attended by the children of such personnel are exempt  
1568 from s. 119.07(1) and s. 24(a), Art. I of the State  
1569 Constitution.

1570       c. The home addresses, telephone numbers, dates of birth,  
1571 and photographs of current or former nonsworn investigative  
1572 personnel of the Office of Financial Regulation's Bureau of  
1573 Financial Investigations whose duties include the investigation  
1574 of fraud, theft, other related criminal activities, or state

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regulatory requirement violations; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

d. The home addresses, telephone numbers, dates of birth, and photographs of current or former firefighters certified in compliance with s. 633.408; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such firefighters; and the names and locations of schools and day care facilities attended by the children of such firefighters are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

e. The home addresses, dates of birth, and telephone numbers of current or former justices of the Supreme Court, district court of appeal judges, circuit court judges, and county court judges; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current or former justices and judges; and the names and locations of schools and day care facilities attended by the children of current or former justices and judges are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

f. The home addresses, telephone numbers, dates of birth, and photographs of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the

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spouses and children of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; and the names and locations of schools and day care facilities attended by the children of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

g. The home addresses, dates of birth, and telephone numbers of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers; and the names and locations of schools and day care facilities attended by the children of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

h. The home addresses, telephone numbers, dates of birth, and photographs of current or former human resource, labor relations, or employee relations directors, assistant directors, managers, or assistant managers of any local government agency or water management district whose duties include hiring and firing employees, labor contract negotiation, administration, or

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other personnel-related duties; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

i. The home addresses, telephone numbers, dates of birth, and photographs of current or former code enforcement officers; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

j. The home addresses, telephone numbers, places of employment, dates of birth, and photographs of current or former guardians ad litem, as defined in s. 39.820; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such persons; and the names and locations of schools and day care facilities attended by the children of such persons are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

k. The home addresses, telephone numbers, dates of birth, and photographs of current or former juvenile probation officers, juvenile probation supervisors, detention superintendents, assistant detention superintendents, juvenile justice detention officers I and II, juvenile justice detention officer supervisors, juvenile justice residential officers, juvenile justice residential officer supervisors I and II,

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juvenile justice counselors, juvenile justice counselor supervisors, human services counselor administrators, senior human services counselor administrators, rehabilitation therapists, and social services counselors of the Department of Juvenile Justice; the names, home addresses, telephone numbers, dates of birth, and places of employment of spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

1. The home addresses, telephone numbers, dates of birth, and photographs of current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel; and the names and locations of schools and day care facilities attended by the children of current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

m. The home addresses, telephone numbers, dates of birth, and photographs of current or former investigators or inspectors of the Department of Business and Professional Regulation; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such current

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or former investigators and inspectors; and the names and locations of schools and day care facilities attended by the children of such current or former investigators and inspectors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

n. The home addresses, telephone numbers, and dates of birth of county tax collectors; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such tax collectors; and the names and locations of schools and day care facilities attended by the children of such tax collectors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

o. The home addresses, telephone numbers, dates of birth, and photographs of current or former personnel of the Department of Health whose duties include, or result in, the determination or adjudication of eligibility for social security disability benefits, the investigation or prosecution of complaints filed against health care practitioners, or the inspection of health care practitioners or health care facilities licensed by the Department of Health; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

p. The home addresses, telephone numbers, dates of birth, and photographs of current or former impaired practitioner consultants who are retained by an agency or current or former employees of an impaired practitioner consultant whose duties

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1720 result in a determination of a person's skill and safety to  
1721 practice a licensed profession; the names, home addresses,  
1722 telephone numbers, dates of birth, and places of employment of  
1723 the spouses and children of such consultants or their employees;  
1724 and the names and locations of schools and day care facilities  
1725 attended by the children of such consultants or employees are  
1726 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
1727 Constitution.

1728       q. The home addresses, telephone numbers, dates of birth,  
1729 and photographs of current or former emergency medical  
1730 technicians or paramedics certified under chapter 401; the  
1731 names, home addresses, telephone numbers, dates of birth, and  
1732 places of employment of the spouses and children of such  
1733 emergency medical technicians or paramedics; and the names and  
1734 locations of schools and day care facilities attended by the  
1735 children of such emergency medical technicians or paramedics are  
1736 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
1737 Constitution.

1738       r. The home addresses, telephone numbers, dates of birth,  
1739 and photographs of current or former personnel employed in an  
1740 agency's office of inspector general or internal audit  
1741 department whose duties include auditing or investigating waste,  
1742 fraud, abuse, theft, exploitation, or other activities that  
1743 could lead to criminal prosecution or administrative discipline;  
1744 the names, home addresses, telephone numbers, dates of birth,  
1745 and places of employment of spouses and children of such  
1746 personnel; and the names and locations of schools and day care  
1747 facilities attended by the children of such personnel are exempt  
1748 from s. 119.07(1) and s. 24(a), Art. I of the State

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1749 Constitution.

1750 s. The home addresses, telephone numbers, dates of birth,  
1751 and photographs of current or former directors, managers,  
1752 supervisors, nurses, and clinical employees of an addiction  
1753 treatment facility; the home addresses, telephone numbers,  
1754 photographs, dates of birth, and places of employment of the  
1755 spouses and children of such personnel; and the names and  
1756 locations of schools and day care facilities attended by the  
1757 children of such personnel are exempt from s. 119.07(1) and s.  
1758 24(a), Art. I of the State Constitution. For purposes of this  
1759 sub-subparagraph, the term "addiction treatment facility" means  
1760 a county government, or agency thereof, that is licensed  
1761 pursuant to s. 397.401 and provides substance abuse prevention,  
1762 intervention, or clinical treatment, including any licensed  
1763 service component described in s. 397.311(26).

1764 t. The home addresses, telephone numbers, dates of birth,  
1765 and photographs of current or former directors, managers,  
1766 supervisors, and clinical employees of a child advocacy center  
1767 that meets the standards of s. 39.3035(2) ~~s. 39.3035(1)~~ and  
1768 fulfills the screening requirement of s. 39.3035(3) ~~s.~~  
1769 ~~39.3035(2)~~, and the members of a Child Protection Team as  
1770 described in s. 39.303 whose duties include supporting the  
1771 investigation of child abuse or sexual abuse, child abandonment,  
1772 child neglect, and child exploitation or to provide services as  
1773 part of a multidisciplinary case review team; the names, home  
1774 addresses, telephone numbers, photographs, dates of birth, and  
1775 places of employment of the spouses and children of such  
1776 personnel and members; and the names and locations of schools  
1777 and day care facilities attended by the children of such

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personnel and members are exempt from s. 119.07(1) and s. 24(a),  
Art. I of the State Constitution.

3. An agency that is the custodian of the information  
specified in subparagraph 2. and that is not the employer of the  
officer, employee, justice, judge, or other person specified in  
subparagraph 2. shall maintain the exempt status of that  
information only if the officer, employee, justice, judge, other  
person, or employing agency of the designated employee submits a  
written request for maintenance of the exemption to the  
custodial agency.

4. An officer, an employee, a justice, a judge, or other  
person specified in subparagraph 2. may submit a written request  
for the release of his or her exempt information to the  
custodial agency. The written request must be notarized and must  
specify the information to be released and the party that is  
authorized to receive the information. Upon receipt of the  
written request, the custodial agency shall release the  
specified information to the party authorized to receive such  
information.

5. The exemptions in this paragraph apply to information  
held by an agency before, on, or after the effective date of the  
exemption.

6. This paragraph is subject to the Open Government Sunset  
Review Act in accordance with s. 119.15 and shall stand repealed  
on October 2, 2024, unless reviewed and saved from repeal  
through reenactment by the Legislature.

Section 21. Subsection (4) of section 322.09, Florida  
Statutes, is amended to read:

322.09 Application of minors; responsibility for negligence

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or misconduct of minor.—

(4) Notwithstanding subsections (1) and (2), if a caregiver of a minor who is under the age of 18 years and is in out-of-home care as defined in s. 39.01 ~~s. 39.01(55)~~, an authorized representative of a residential group home at which such a minor resides, the caseworker at the agency at which the state has placed the minor, or a guardian ad litem specifically authorized by the minor's caregiver to sign for a learner's driver license signs the minor's application for a learner's driver license, that caregiver, group home representative, caseworker, or guardian ad litem does not assume any obligation or become liable for any damages caused by the negligence or willful misconduct of the minor by reason of having signed the application. Before signing the application, the caseworker, authorized group home representative, or guardian ad litem shall notify the caregiver or other responsible party of his or her intent to sign and verify the application.

Section 22. Paragraph (g) of subsection (2) of section 934.03, Florida Statutes, is amended to read:

934.03 Interception and disclosure of wire, oral, or electronic communications prohibited.—

(2)

(g) It is lawful under this section and ss. 934.04-934.09 for an employee of:

1. An ambulance service licensed pursuant to s. 401.25, a fire station employing firefighters as defined by s. 633.102, a public utility, a law enforcement agency as defined by s. 934.02(10), or any other entity with published emergency telephone numbers;

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1836           2. An agency operating an emergency telephone number "911"  
1837 system established pursuant to s. 365.171; or

1838           3. The central abuse hotline operated pursuant to s. 39.101  
1839 ~~s. 39.201~~

1840  
1841 to intercept and record incoming wire communications; however,  
1842 such employee may intercept and record incoming wire  
1843 communications on designated "911" telephone numbers and  
1844 published nonemergency telephone numbers staffed by trained  
1845 dispatchers at public safety answering points only. It is also  
1846 lawful for such employee to intercept and record outgoing wire  
1847 communications to the numbers from which such incoming wire  
1848 communications were placed when necessary to obtain information  
1849 required to provide the emergency services being requested. For  
1850 the purpose of this paragraph, the term "public utility" has the  
1851 same meaning as provided in s. 366.02 and includes a person,  
1852 partnership, association, or corporation now or hereafter owning  
1853 or operating equipment or facilities in the state for conveying  
1854 or transmitting messages or communications by telephone or  
1855 telegraph to the public for compensation.

1856           Section 23. Except as otherwise expressly provided in this  
1857 act, and except for this section, which shall take effect upon  
1858 this act becoming a law, this act shall take effect October 1,  
1859 2021.

**COMMITTEE:** Children, Families, and Elder Affairs  
**ITEM:** SB 96  
**FINAL ACTION:** Favorable with Committee Substitute  
**MEETING DATE:** Tuesday, March 2, 2021  
**TIME:** 4:00—6:00 p.m.  
**PLACE:** 37 Senate Building

[illegible]

CODES: FAV=Favorable  
UNF=Unfavorable  
-R=Reconsidered

RCS=Replaced by Committee Substitute  
RE=Replaced by Engrossed Amendment  
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed  
VA=Vote After Roll Call  
VC=Vote Change After Roll Call

WD=Withdrawn  
OO=Out of Order  
AV=Abstain from Voting

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

3/2/21  
Meeting Date

96  
Bill Number (if applicable)

Topic Child Welfare

Amendment Barcode (if applicable)

Name Kate MacFall

Job Title state director

Address 1624 Nutmeg Circle  
Street

Phone 850 508-1001

Tallahassee FL 32308  
City State Zip

Email kmacfall@hsos.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing the Humane Society of the United States

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

THE FLORIDA SENATE

# APPEARANCE RECORD

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

Meeting Date

3/2/21

Bill Number (if applicable)

96

Topic

Child Welfare

Name

Travis Moore

Amendment Barcode (if applicable)

Job Title

Address

Street

St. Peter

City

State

FL

Zip

Phone

727 421 6902

Email

travis@moore-relations.com

Speaking:

☐

For

☐

Against

☐

Information

Waive Speaking:

☒

In Support

☐

Against

(The Chair will read this information into the record.)

Representing

ALDF

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.**

Children  
Foster Care

THE FLORIDA SENATE

APPEARANCE RECORD

3-2-21

Meeting Date

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

96

Bill Number (if applicable)

Topic Child Welfare

Amendment Barcode (if applicable)

Name Barbara Devane

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

Address 625 E Brevard St  
Street

Phone 251-4280

City

State

Zip

Email barbara.devane1@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

\* Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing FL NOW

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 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

3/2/21

Meeting Date

SB 96

Bill Number (if applicable)

Topic Child Welfare

Amendment Barcode (if applicable)

Name Brita ("Breeta") Lincoln

Job Title Legislative Committee member

Address 1747 Orlando Central Pkwy Phone 407-855-7604  
Street

Orlando FL 32809 Email bwilkinslincoln@  
City State Zip gmail.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida PTA

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 (10/14/14)

**YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM**

**THE FLORIDA SENATE**

**APPEARANCE RECORD**

March 2, 2021

*Meeting Date*

96

*Bill Number (if applicable)*

Topic Child Welfare

*Amendment Barcode (if applicable)*

Name Barney Bishop III

Job Title Chief Executive Officer

Address 2215 Thomasville Road

Phone 850.510.9922

*Street*

Tallahassee

FL

32308

Email barney@barneybishop.com

*City*

*State*

*Zip*

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Smart Justice Allaince

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 (10/14/14)

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

Duplicate

THE FLORIDA SENATE

**APPEARANCE RECORD**

03/02/2021

Meeting Date

SB 96

Bill Number (if applicable)

Topic Child Welfare

Amendment Barcode (if applicable)

Name Andrew Kalel

Job Title Legislative Affairs Director

Address 227 N. Bronough Street, Suite 1125

Phone (850)999-4655

Street

Tallahassee, Florida, 32301

Email andrew.kalel@regionalcounsels.com

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Offices of Criminal Conflict & Civil Regional Counsel, Regions 1,3,4, and 5

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 (10/14/14)

**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

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BILL: CS/SB 96

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

SUBJECT: Child Welfare

DATE: March 3, 2021

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

|    | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION        |
|----|---------|----------------|-----------|---------------|
| 1. | Moody   | Cox            | CF        | <b>Fav/CS</b> |
| 2. | _____   | _____          | AP        | _____         |
| 3. | _____   | _____          | RC        | _____         |

---

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Technical Changes

---

**I. Summary:**

CS/SB 96 reorganizes and clarifies reporting requirements and penalties, and adds requirements relating to reporting, data collection and analysis, animal abuse, sexual abuse training and response teams, multidisciplinary legal representation teams, and other provisions.

The bill moves parts of current law relating to the Department of Children and Families (DCF) central abuse hotline operation and maintenance from s. 39.201, F.S., to s. 39.101, F.S. It also adds a requirement that the central abuse hotline keep statistical reports relating to reports of child abuse and sexual abuse that are reported from or occur in specified educational settings and codifies the existing practice of investigating reports of the sexual abuse of a child and juvenile sexual abuse including those that occur in specified educational settings.

Further, the bill provides that a person required to report to the hotline is not relieved by notifying his or her supervisor.

If the Department of Education (DOE) determines that any instructional personnel or school administrator knowingly failed to report known or suspected child abuse as required and the Education Practices Commission (EPC) has issued a final order for a previous instance of failure to report by the individual, the bill requires a minimum of a 1 year suspension of the instructional personnel's or school administrator's educator certificate.

The bill requires an immediate onsite investigation to be conducted by a critical incident rapid response team (CIRRT) for all reports to the hotline containing allegations of sexual abuse of a

child under certain circumstances. It also requires a representative from a child advocacy center to be included on a multiagency team conducting the investigation and provides a description of child advocacy centers. The bill adds members of standing or select legislative committees to be provided access to confidential reports and records in cases of child abuse and neglect within 7 business days of the request.

The bill creates a new section of the Florida Statutes relating to reporting animal cruelty, to recognize the strong link between child abuse and animal cruelty by requiring any person who is required to investigate child abuse, abandonment, or neglect and who knows or has reasonable cause to suspect that cruelty of an animal has occurred must report such knowledge or suspicion within 72 hours to his or her supervisor for submission to a local animal control agency. The bill specifies the information that is to be included in a report.

The bill provides penalties for knowingly and willfully failing to report animal abuse and requires training for child protective investigators and animal control officers. The bill amends the list of persons under the current s. 39.201(1)(d), F.S., who are required to disclose their name to the hotline to include animal control officers and other agents.

The bill amends current law related to sexual abuse of animals to update terminology, include activities specifically related to children and activities involving the sexual abuse of animals, and increase the penalty for violations from a first degree misdemeanor to a third degree felony. The bill adds the offense of sexual activities involving animals as a Level 6 on the Offense Severity Ranking Chart.

The bill authorizes the Office of Criminal Conflict and Civil Regional Council (OCCCRC) to establish multidisciplinary legal representation of parents and children in the dependency system. The bill provides legislative findings and authorizes each OCCCRC to establish a program. It requires the DCF to collaborate on implementation and provide existing federal matching funding. The bill provides program requirements and requires information to be reported annually to the Office of Program Policy Analysis (OPPAGA). The OPPAGA is then required to submit a report annually to the Governor, the President of the Senate and the Speaker of the House of Representatives.

The bill consolidates current provisions and provides additional requirements for the DCF related to resources and support for foster parents and relative caregivers, including the establishment of the current Foster Information Center. The bill repeals two sections of the Florida Statutes that are obsolete due to the consolidation.

The bill may have an indeterminate effect on state revenues and expenditures. See section V. Fiscal Impact Statement.

The bill is effective October 1, 2021.

## **II. Present Situation:**

Refer to Section III. Effect of Proposed Changes for discussion of the relevant portions of current law.

### III. Effect of Proposed Changes:

#### Reporting Requirements and Intake Process (Sections 1, 2, 5, and 18)

In 1962, Dr. C. Henry Kempe and his colleagues were among the first to recognize and publicize their findings relating to child abuse and neglect in a paper titled “The Battered-Child Syndrome”.<sup>1</sup> This paper, amendments to the Social Security Act of 1935, and two small meetings held by the Children’s Bureau (CB) were defining moments in that year which lead to four states implementing reporting laws in 1963 and all states implementing them by 1967.<sup>2</sup>

In 1962, the Social Security Act of 1935 was amended to provide money to expand child welfare services. The federal Child Abuse Prevention and Treatment Act (CAPTA)<sup>3</sup> enacted in 1974 authorized federal funds to improve the state response to physical abuse and neglect, which was most recently reauthorized in 2010<sup>4</sup> and has been amended several times most recently in 2019.<sup>5,6</sup> CAPTA requires states to submit a plan to receive grant funds which must contain provisions and procedures for an individual to report known and suspected instances of child abuse and neglect, including mandatory reporting laws of such instances.<sup>7</sup> Florida law currently provides for a central abuse hotline and mandatory reporting requirements under s. 39.201, F.S.

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<sup>1</sup> Kempe, Henry, *The Battered Child Syndrome*, available at [https://www.kempe.org/wp-content/uploads/2015/01/The\\_Battered\\_Child\\_Syndrome.pdf](https://www.kempe.org/wp-content/uploads/2015/01/The_Battered_Child_Syndrome.pdf); the Kempe Center for the Prevention and Treatment of Child Abuse and Neglect, *History Innovating for 45 Years*, available at <https://www.kempe.org/about/history/#:~:text=Innovating%20for%2045%20Years%20In%201962%2C%20Dr.%20C.,awareness%20and%20exposing%20the%20reality%20of%20child%20abuse> (all sites last visited March 1, 2021).

<sup>2</sup> Myers, John, *A Short History of Child Protection in America*, September 2008, p. 10, available at [https://us.sagepub.com/sites/default/files/upm-binaries/35363\\_Chapter1.pdf](https://us.sagepub.com/sites/default/files/upm-binaries/35363_Chapter1.pdf) (last visited March 1, 2021).

<sup>3</sup> Pub.L. 93-247.

<sup>4</sup> Pub.L. 111-320

<sup>5</sup> Pub.L. 115-424; Children’s Bureau, *Factsheet: About CAPTA: A Legislative History*, February 2019, p. 1, available at <https://www.childwelfare.gov/pubpdfs/about.pdf> (last visited March 1, 2021).

<sup>6</sup> 42 U.S.C. ch. 67

<sup>7</sup> 42 U.S.C. s. 5106a(1)(A) and (b)(2)(B)(i)

### ***Central Abuse Hotline***

The DCF is required to operate and maintain a central abuse hotline<sup>8</sup> to receive mandatory reports of known or suspected instances of child abuse,<sup>9</sup> abandonment,<sup>10</sup> or neglect,<sup>11</sup> or instances when a child does not have a parent, legal custodian or adult relative available to provide supervision and care.<sup>12</sup> The hotline must operate 24 hours a day, 7 days a week, and accept reports in writing, via fax, via web-based reporting,<sup>13</sup> via web-based chat, or through a single statewide toll-free telephone number.<sup>14</sup> The DCF is required to conduct a study to determine the feasibility of using text and short message service formats to receive reports.<sup>15</sup> The DCF is required to promote awareness of the hotline.<sup>16</sup>

The hotline must operate in a manner that will allow the DCF to:

- Immediately identify prior cases or reports through utilizing a tracking system;
- Monitor and evaluate the effectiveness of the DCF's reporting and investigation program through the development and use of statistical and other information;
- Track critical steps in the investigative process to ensure compliance with all reporting requirements;
- Collect, analyze, and produce statistical reports, including an aggregate report on patterns of child abuse, abandonment, and neglect, including child-on-child sexual abuse;
- Prepare separate reports, as required under s. 39.201(4)(d), F.S., of child abuse and sexual abuse which are reported from or occurred on the campus of any Florida College System

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<sup>8</sup> Hereinafter cited as "hotline". "Florida Abuse Hotline" means the DCF's central abuse reporting intake assessment center, which receives and processes reports of known or suspected child abuse, neglect or abandonment 24 hours a day, seven days a week. Chapter 65C-30.001, F.A.C.

<sup>9</sup> Section 39.01(2), F.S., defines "abuse" as any willful act or threatened act that results in any physical, mental, or sexual abuse, injury, or harm that causes or is likely to cause the child's physical, mental, or emotional health to be significantly impaired.

<sup>10</sup> Section 39.01(1), F.S., defines "abandoned" or "abandonment" as a situation in which the parent or legal custodian of a child or, in the absence of a parent or legal custodian, the caregiver, while being able, has made no significant contribution to the child's care and maintenance or has made no significant contribution to the child's care and maintenance or has failed to establish or maintain a substantial and positive relationship with the child, or both. "Establish or maintain a substantial and positive relationship" means, in part, frequent and regular contact with the child, and the exercise of parental rights and responsibilities.

<sup>11</sup> Section 39.01(50), F.S., states "neglect" occurs when a child is deprived of, or is allowed to be deprived of, necessary food, clothing, shelter, or medical treatment or a child is permitted to live in an environment when such deprivation or environment causes the child's physical, mental, or emotional health to be significantly impaired or to be in danger of being significantly impaired, except when such circumstances are caused primarily by financial inability unless services have been offered and rejected by such person.

<sup>12</sup> Section 39.201(4), F.S.

<sup>13</sup> Section 39.201(2)(j), F.S., requires the DCF to update the web-based reporting form to include fields for specified information and allow a reporter to save and return to a report at a later time.

<sup>14</sup> Section 39.201(4) and (5), F.S.

<sup>15</sup> Section 39.201(2)(k), F.S.

<sup>16</sup> Section 39.201(4), F.S.

institution,<sup>17</sup> state university,<sup>18</sup> or nonpublic college, university, or school, as defined in ss. 1000.21 and 1005.02, F.S.;

- Provide resources for the evaluation, management, and planning of preventive and remedial services for children who have been subject to abuse, abandonment, or neglect; and
- Initiate and enter into agreements with other states to gather and share information contained in reports on child maltreatment.<sup>19</sup>

Information received by the hotline may not be used for employment screening except in specified instances.<sup>20</sup> As part of the DCF's quality assurance program, it is required to review hotline reports to analyze when there are three or more unaccepted reports to identify patterns and initiate a case for investigation, if warranted.<sup>21</sup>

### ***Mandatory Reporting***

Current law requires an individual to make a report to the hotline in three instances, namely he or she knows or has reasonable cause to suspect that:

- A child has been abused, abandoned, or neglected by a parent, legal custodian, caregiver, or other person responsible for the child's welfare or that a child has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care;<sup>22</sup>
- A child has been abused by an adult other than a parent, legal custodian, caregiver, or other person responsible for the child's welfare;<sup>23</sup> or
- A child is the victim of childhood sexual abuse or the victim of a known or suspected juvenile sexual offender.<sup>24</sup>

Florida law provides for exceptions to reporting requirement in specified circumstances:<sup>25</sup>

- Professionals who are hired or contracted with the DCF to provide treatment or counseling services to a child that are the subject of the abuse, abandonment, or neglect;<sup>26</sup>
- An officer or employee of the judicial branch when the child is currently being investigated, is the subject of an existing dependency case, or the matter has previously been reported to the DCF;<sup>27</sup> or

<sup>17</sup> Section 1000.21(3), F.S., provides "Florida College System institution" except as otherwise specifically provided, includes a list of specified public postsecondary educational institutions in the Florida College System and any branch campuses, centers, or other affiliates of the institution, including, for instance, Eastern Florida State College, which serves Brevard County, and Broward College, which serves Broward County.

<sup>18</sup> Section 1000.21(6), F.S., provides "State University", except as otherwise specifically provided, includes a list of specified institutions and any branch campuses, centers, or other affiliates of the institution, including, for instance, The University of Florida, The Florida State University and The Florida Agricultural and Mechanical University.

<sup>19</sup> Section 39.201(4)(a) to (f), F.S.

<sup>20</sup> Section 39.201(6), F.S.

<sup>21</sup> Section 39.201(7), F.S.

<sup>22</sup> Section 39.201(1)(a), F.S.

<sup>23</sup> Section 39.201(1)(b), F.S.

<sup>24</sup> Section 39.201(1)(c), F.S.

<sup>25</sup> Section 39.201(1)(g), F.S., provides that nothing in ch. 39, F.S., may be construed to remove or reduce any person's reporting requirement, including any employee of a community-based care provider.

<sup>26</sup> Section 39.201(1)(e), F.S.

<sup>27</sup> Section 39.201(1)(g), F.S.

- An officer or employee of law enforcement when the incident under investigation was reported to the law enforcement by the hotline.<sup>28</sup>

Chapter 39, F.S., does not require a reporter to disclose his or her identity to the hotline, but the hotline personnel must receive training in encouraging them to do so.<sup>29</sup> There is a list of specified reporters, however, which must disclose his or her name.<sup>30</sup> The DCF is required to have technology which allows it to automatically obtain the number from which the reporter calls or faxes the report, or the internet protocol address from which the report is made.<sup>31</sup> Reporter names and numbers are entered into the record of the report, but are held confidential.<sup>32</sup> Hotline counselors must inform reporters these confidentiality provisions.<sup>33</sup>

Any person who is required to report or investigate child abuse, abandonment or neglect cases and who has reasonable cause to suspect that a child died as a result of such treatment must report his or her suspicion to the medical examiner, who must accept the report for investigation and report his or her findings to designated agencies.<sup>34</sup> Autopsy reports are not subject to confidentiality requirements provided for in s. 39.202, F.S.<sup>35</sup>

### ***Initial Intake Process***

A report to the hotline is the first step that must be taken to initiate a safety assessment and an investigation process.<sup>36</sup> The type of alleged abuse and whether the allegation is against a parent, legal custodian, caregiver, or other person responsible for the child's welfare will determine the steps that the DCF is required to take.<sup>37</sup>

When allegations are made against a parent, legal custodian, caregiver,<sup>38</sup> or other person responsible for the child's welfare,<sup>39</sup> the hotline counselor must assess whether the report meets

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<sup>28</sup> Section 39.201(1)(h), F.S.

<sup>29</sup> Section 39.201(2)(h), F.S.

<sup>30</sup> Section 39.201(1)(d), F.S., provides the following occupational categories must disclose their names: physicians, osteopathic physician, medical examiner, chiropractic physician, nurse or hospital personnel engaged in the admission, examination, care or treatment of persons; health or mental health professional not already listed; practitioner who relies solely on spiritual means for healing; school teacher or other school official or personnel; social worker, day care center worker, or other professional child care, foster care, residential, or institutional worker; law enforcement officer; or judge.

<sup>31</sup> Section 39.201(2)(h), F.S.

<sup>32</sup> *Id.* See also s. 39.202, F.S., which is discussed in more detail below. Section 39.201(2)(i), F.S., provides that the DCF must record all incoming and outgoing calls to the hotline, and must keep an electronic copy which must only be disclosed to law enforcement, state attorney, or the DCF for purposes of conducting investigations pursuant to s. 39.205, F.S., or s. 39.206, F.S., respectively.

<sup>33</sup> *Id.*

<sup>34</sup> Section 39.201(3), F.S.

<sup>35</sup> *Id.*

<sup>36</sup> Section 39.201(4), F.S.

<sup>37</sup> See Section 39.201(2)(a) and (b), F.S.

<sup>38</sup> Section 39.01(10), F.S., defines "caregiver" as the parent, legal custodian, permanent guardian, adult household member, or other person responsible for a child's welfare as defined in subsection (54).

<sup>39</sup> Section 39.01(54), F.S., defines "other person responsible for a child's welfare" to include the child's legal guardian or foster parent; an employee of any school, public or private child day care center, residential home, institution, facility, or agency; a law enforcement officer employed in any facility, service, or program for children that is operated or contracted by the Department of Juvenile Justice, with exceptions of specified personnel working in their official capacity. Section 39.201(2)(f), F.S., requires reports of known or suspected institutional child abuse or neglect to be made in the same manner as other reports under s. 39.201, F.S.

one of the statutory definitions of abuse, abandonment, or neglect.<sup>40</sup> If they do, the report is accepted for a protective investigation.<sup>41</sup> All reports made by an emergency room physician must be investigated.<sup>42</sup> At the same time, the DCF makes a determination regarding the timeline for which a protective investigation must be initiated including, in part:

- Immediately if:
  - It appears the child's immediate safety or well-being is endangered;
  - The family may flee or the child will be unavailable for purposes of conducting a child protective investigation; or
  - The facts otherwise so warrant; or
- Within 24 hours in all other child abuse, abandonment, or neglect cases.<sup>43</sup>

Section 39.201(5), F.S., provides that an alleged perpetrator in an institutional investigation may be represented by an attorney or accompanied by another person if specified conditions are met, but the absence of such person must not prevent the DCF from conducting an investigation. If an institution is not operating and the child is unable to be located, the investigation must begin immediately upon the resumption of operations. The DCF must provide all investigative reports relating to the abuse report to any state attorney or law enforcement agency upon request.

There are instances when the DCF is immediately required to refer the report to local law enforcement,<sup>44</sup> and other instances when the DCF is required to provide voluntary community services.<sup>45</sup> The DCF has other specific requirements with respect to reports of the following:

- Reports involving juvenile sexual abuse or a child who has exhibited inappropriate sexual behavior, including to:
  - Immediately electronically transfer the report to the appropriate county sheriff's office;
  - Conduct an assessment and assist the family with receiving appropriate services;
  - Submit a written report within 48 hours to county sheriff's office; and
  - Inform the court of the allegations if the child is in the custody or under the protective supervision of the DCF.
- Reports of abuse, abandonment, or neglect which occur out-of-state and the alleged perpetrator and victim child are out of state;<sup>46</sup> and

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<sup>40</sup> Section 39.201(2)(a), F.S.

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

<sup>42</sup> Section 39.201(2)(l), F.S.

<sup>43</sup> Section 39.201(5), F.S.

<sup>44</sup> See s. 39.201(2)(b) and (e), F.S., which provides that reports of abuse by an adult other than a parent, legal custodian, caregiver, or other person responsible for the child's welfare, and reports involving impregnation of a child under 16 years old by a person 21 years of age or older, must be immediately reported to the appropriate county sheriff.

<sup>45</sup> See s. 39.201(2)(a), F.S., which permits the hotline to accept a call from a parent or legal custodian seeking assistance which does not meet one of these statutory definitions to prevent a future risk of harm to a child and the DCF may provide voluntary community services if a need for them exists.

<sup>46</sup> Section 39.201(2)(d), F.S., provides that unless the child is currently being evaluated in a medical facility in Florida, the hotline must not accept the report but is required to transfer the information to the appropriate state or country. If the child is being currently evaluated in a medical facility in Florida, the hotline must accept the report or call for an investigation and transfer the information to the appropriate state or country.

- Reports of a surrendered newborn infant.<sup>47, 48</sup>

### ***Penalties for Failing to Report Child Abuse***

Current law provides that a person is subject to penalties for failing to report known or suspected child abuse, abandonment, or neglect, or for willfully preventing another person from making such report.<sup>49</sup> Any person who violates this law commits a third degree felony.<sup>50</sup>

Florida law also provides that a person who is 18 years of age or older and lives in the same house as a child who is known or suspected to be a victim of child abuse, neglect, or aggravated child abuse, and knowingly and willfully fails to report the child abuse commits a third degree felony, unless the court finds that the person is a victim of domestic violence or that other mitigating circumstances exist.<sup>51</sup>

Educational entities, including Florida College System institutions, state universities, or nonpublic colleges, universities or schools, and their administrators, are also currently subject to penalties for failing to report child abuse, neglect or abandonment.<sup>52</sup> These schools or their administrators who knowingly and willfully, upon receiving information from faculty, staff, or other institution employees, fail to report known or suspected child abuse, abandonment, or neglect committed on the property of these schools or during an event sponsored by one of these schools, or who knowingly and willfully prevent another person from doing so, are subject to fines of \$1 million for each such failure.<sup>53</sup> The fines are to be assessed as follows:

- A Florida College System institution subject to a fine shall be assessed by the State Board of Education.
- A state university subject to a fine shall be assessed by the Board of Governors.
- A nonpublic college, university, or school subject to a fine shall be assessed by the Commission for Independent Education.<sup>54</sup>

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<sup>47</sup> Section 383.50, F.S., provides that “newborn infant” means a child who a licensed physician reasonably believes is approximately 7 days old or younger at the time the child is left at a hospital, emergency medical services station, or fire station.

<sup>48</sup> Section 39.201(2)(g), F.S., provides that the DCF must make and receive reports of surrendered newborn infants, refer the caller to a licensed child-placing agency on a rotating basis, and comply with the requirements under s. 39.395, F.S., including, in part, immediately beginning an investigation if there is evidence of any abuse or neglect beyond the child being left at one of the designated facilities; if there is no other evidence, the report will not be considered abuse, abandonment or neglect under ch. 39, F.S.

<sup>49</sup> Section 39.205(1), F.S.

<sup>50</sup> Section 39.205(1), F.S. A third degree felony is punishable by up to five years imprisonment and up to a \$5,000 fine. Sections 775.082, 775.083, and 775.084, F.S.

<sup>51</sup> Section 39.205(2), F.S.

<sup>52</sup> Section 39.205(3), F.S.

<sup>53</sup> *Id.* Current law also provides that any Florida College System institution, state university, or nonpublic college, university, or school, as defined in s. 1000.21 or s. 1005.02, whose law enforcement agency fails to report known or suspected child abuse, abandonment, or neglect committed on the property of such schools or during an event sponsored by such schools are subject to fines of \$1 million for each such failure to report. Section 39.205(4), F.S.

<sup>54</sup> Section 39.205(3), F.S.

### ***Education Practices Commissions***

Current law provides the Education Practices Commission (EPC) with authority to discipline specified instructional personnel<sup>55</sup> and school administrators<sup>56</sup> in various circumstances.<sup>57</sup> The EPC may, for instance, suspend the educator certificate for up to 5 years which would deny him or her the right to teach or be employed in any capacity by a district school board or public school that would require direct contact with students for that time period.<sup>58</sup> There are a number of circumstances that are grounds for suspending an educator certificate.<sup>59</sup>

Florida law is currently silent on whether the EPC must suspend an instructional personnel's or school administrators' educator certificate for failing to report child abuse, abandonment, or neglect as required under s. 39.201, F.S.

### ***Effect of the Bill***

The bill reorganizes, clarifies, and relocates, in part, s. 39.201, F.S., as follows:

- Section 39.101, F.S. provides for the following sections relating to the hotline:
  - Operation and maintenance in s. 39.101(1), F.S.;
  - Timelines for initiating an investigation in s. 39.101(2), F.S.;
  - Use of information received by the hotline in s. 39.101(3), F.S.; and
  - Quality assurance in s. 39.101(4), F.S.
- Section 39.201, F.S., provides for the following sections relating to reporting requirements:
  - Required reporting in s. 39.201(1), F.S.;
  - Exceptions to reporting in s. 39.201(2), F.S.;
  - Additional circumstances relating to reporting in s. 39.201(3), F.S.;
  - Reports of child abuse, neglect or abandonment by a parent or caregiver in s. 39.201(4), F.S.;
  - Reports of sexual abuse of a child, juvenile sexual abuse, or a child who has exhibited inappropriate sexual behavior in s. 39.201(5), F.S.; and
  - Mandatory reports of a child death in s. 39.201(6), F.S.

### **Operation and Maintenance (Section 1)**

The bill removes the DCF's responsibility to determine the feasibility of using text and short message service formats to receive reports.

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<sup>55</sup> Section 1012.01(2), F.S., defines "instructional personnel" as any K-12 staff member whose function includes the provision of direct instructional services to students. Instructional personnel also includes K-12 personnel whose functions provide direct support in the learning process of students. Instructional personnel include a specified list of personnel of K-12.

<sup>56</sup> Section 1012.01(3)(c), F.S., provides that "school administrators" include 1. school principals or school directors who are staff members performing the assigned activities as the administrative head of a school and to whom have been delegated responsibility for the coordination and administrative direction of the instructional and noninstructional activities of the school. This classification also includes career center directors and assistance principals who are staff members assisting the administrative head of the school. This classification also includes assistant principals for curriculum and administration.

<sup>57</sup> Section 1012.795(1), F.S.

<sup>58</sup> *Id.*

<sup>59</sup> See s. 1012.795(1), F.S., for a list of circumstances.

The bill clarifies in s. 39.101(1)(a), F.S., that mandatory reports of child abuse, abandonment, or neglect must be made “immediately,” whereas current law under s. 39.201, F.S., is silent on the time in which the reports must be made.

In addition to incidents that occur at a Florida College System institution or a state university, s. 39.101(3), F.S., adds to the list of schools or school events the DCF must collect and analyze data on, and include in the separate statistical reports of instances of child abuse and sexual abuse, as follows:

- On school premises;
- On school transportation;
- At school-sponsored off-campus events;
- At any school readiness program provider determined to be eligible under s. 1002.88, F.S.;
- At a private prekindergarten provider<sup>60</sup> or a public school prekindergarten provider;<sup>61</sup>
- At a public K-12 school;<sup>62</sup>
- At a private school;<sup>63</sup> or
- At any school.<sup>64</sup>

#### Reporting Requirements (Section 2)

The bill also amends current law s. 39.201(2)(c), F.S., relating to reports of juvenile sexual abuse or a child who has exhibited inappropriate sexual behavior., relocates the law to a new s. 39.201(5), F.S., and requires the DCF to comply with the following new requirements:

<sup>60</sup> Section 1002.51(7), F.S., defines “private prekindergarten provider” as a provider other than a public school which is eligible to deliver the school-year prekindergarten program under s. 1002.55, F.S., or the summer prekindergarten program under s. 1002.61, F.S.

<sup>61</sup> Section 1002.51(8), F.S., states “public school prekindergarten provider” includes a traditional public school or a charter school that is eligible to deliver the school-year prekindergarten program under s. 1002.63, F.S., or the summer prekindergarten program under s. 1002.61, F.S.

<sup>62</sup> Section 1000.04(1), F.S., states “public K-12 schools” include charter schools and consist of kindergarten classes; elementary, middle, and high school grades and special classes; virtual instruction programs; workforce education; career centers; adult, part-time, and evening schools, courses, or classes, as authorized by law to be operated under the control of district school boards; and lab schools operated under the control of state universities.

<sup>63</sup> Section 1002.01(2), F.S., defines “private school” as a nonpublic school defined as an individual, association, copartnership, or corporation, or department, division, or section of such organizations, that designates itself as an educational center that includes kindergarten or a higher grade or as an elementary, secondary, business, technical, or trade school below college level or any organization that provides instructional services that meet the intent of s. 1003.01(13), F.S., or that gives preemployment or supplementary training in technology or in fields of trade or industry or that offers academic, literary, or career training below college level, or any combination of the above, including an institution that performs the functions of the above schools through correspondence or extension, except those licensed under the provisions of ch. 1005, F.S. A private school may be a parochial, religious, denominational, for-profit, or nonprofit school, but does not include home education programs conducted in accordance with s. 1002.41, F.S. *Id.*

<sup>64</sup> Section 1005.02(16), F.S., defines “school” as any nonpublic postsecondary noncollegiate educational institution, association, corporation, person, partnership, or organization of any type which: (a) offers to provide or provides any complete, or substantially complete, postsecondary program of instruction through the student’s personal attendance; in the presence of an instructor; in a classroom, clinical, or other practicum setting; or through correspondence or other distance education; (b) represents, directly or by implication, that the instruction will qualify the student for employment in an occupation for which a degree is not required in order to practice in this state; (c) receives remuneration from the student or any other source based on the enrollment of a student or the number of students enrolled; or (d) offers to award or awards a diploma, regardless of whether it conducts instruction or receives remuneration.

- Provide services in the least restrictive environment possible and must include child advocacy center services pursuant to s. 39.3035, F.S.,<sup>65</sup> and sexual abuse treatment programs developed and coordinated by the Children’s Medical Services Program pursuant to s. 39.303, F.S.;
- Conduct a protective investigation for allegations of childhood sexual abuse or juvenile sexual abuse which occur on or at the schools or school events listed in the newly created s. 39.101(3)(f)2., F.S.,<sup>66</sup> and requires that the investigation include an interview with the child’s parent or legal guardian;
- Notify the DOE, the law enforcement agency having jurisdiction over the municipality or county in which the school is located and, as appropriate, the superintendent of the school district where the school is located, the administrative officer of the private school, or the owner of the private school readiness or prekindergarten provider; and
- Prepare a written report to the law enforcement agency within 3 working days after making the oral report. Any criminal investigation must be coordinated with the DCF’s child protective investigation, whenever possible. Any interested person who has relevant information relating to the abuse may forward a statement to the DCF.

Section 39.201(1)(b)2.h., F.S., is created to require an animal control officer as defined in s. 828.27, F.S.,<sup>67</sup> or agent appointed under s. 828.03, F.S., to disclose his or her name when he or she makes a report to the hotline.

The Florida Administrative Code will have to be amended to define the role and responsibilities of the hotline, and rules regarding child protective investigators<sup>68</sup> will need to be amended to reflect new rules, definitions, and provisions contained in the proposed bill.

#### Penalties (Sections 5 and 18)

The bill amends s. 39.205(4), F.S., to clarify that nothing in that section may be construed to remove or reduce the requirement of any person, including any employee of the following institutions, from his or her requirement to directly report a known or suspected case of child abuse, abandonment, neglect or the sexual abuse of a child<sup>69</sup> to the hotline a:

<sup>65</sup> See below for further discussion on this section of the Florida Statutes.

<sup>66</sup> SB 7000 (2020) included a provision in s. 39.201(1)(a)3.c., F.S., that is identical to the provision created in s. 39.201(3)(f)2., F.S., of this bill. The DCF reported in its agency analysis dated October 17, 2019 that the provision of s. 39.201(1)(a)3.c. codifies the current practice of conducting investigations of child-on-child sexual reports that occur at specified events or on school grounds. The DCF, *Agency Analysis for SB 7000*, p. 4, October 17, 2019 (on file with the Senate Committee on Children, Families, and Elder Affairs) (hereinafter cited as the “The DCF SB 7000 (2020) Analysis”).

<sup>67</sup> See below for definition.

<sup>68</sup> A “child protective investigator” means a child welfare professional who is responsible for investigating alleged child maltreatment and conducting assessments regarding the safety of children. Rule 65C-30.001, F.A.C.

<sup>69</sup> Section 39.01(77), F.S., defines “sexual abuse of a child” for purposes of finding a child to be dependent as one or more of the following acts: (a) any penetration, however slight, of the vagina or anal opening of one person by the penis of another person, whether or not there is the emission of semen; (b) any sexual contact between the genitals or anal opening of one person and the mouth or tongue of another person; (c) any intrusion by one person into the genitals or anal opening of another person, including the use of any object for this purpose, except that this does not include any act intended for a valid medical purpose; or (d) the intentional touching of the genitals or intimate parts, including the breasts, genital area, groin, inner thighs, and buttocks, or the clothing covering them, of either the child or the perpetrator with specified exceptions; (f) the intentional exposure of the perpetrator’s genitals in the presence of a child, or any other sexual act intentionally perpetrated in the presence of a child, if such exposure or sexual act is for the purpose of sexual arousal or gratification, aggression,

- School readiness program provider determined to be eligible under s. 1002.88, F.S.;
- Private prekindergarten provider or a public school prekindergarten provider;
- Public K-12 school;
- Private school;
- Florida College System institution or a state university;
- College;<sup>70</sup> or
- School.

The bill also provides that that school personnel reporting child abuse to their supervisor does not relieve them of the responsibility to directly report to the hotline.

The bill amends s. 1012.795, F.S., requiring the EPC to suspend for not less than one year the educator certificate of instructional personnel or school administrator if the DCF finds that he or she knowingly failed to report child abuse pursuant to s. 39.201, F.S., and the EPC has issued a final order<sup>71</sup> in accordance with ch. 120, F.S., for a previous instance of failure to report by the individual.

### **Institutional Child Abuse, Abandonment, or Neglect (Section 7)**

Florida law provides that the DCF must conduct a child protective investigation of any reported institutional child abuse, abandonment, or neglect.<sup>72</sup> Upon receipt of such report, the DCF must initiate an investigation within the time provided in s. 39.201(5), F.S., and must notify the state attorney, law enforcement agency, and licensing agency that must conduct a joint investigation, unless independent investigations are more feasible.<sup>73</sup>

The DCF must give each agency who is conducting a joint investigation full access to the information it has gathered, and provide an oral and written report to the state attorney.<sup>74</sup> The state attorney must also provide the DCF with a copy of its report and conclusion on whether prosecution is justified and appropriate within 15 days after the investigation is completed.<sup>75</sup>

If the person who is the subject of the report constitutes a continued threatened of harm to the welfare of children by continued contact with them, the DCF may restrict his or her access by the least restrict means necessary to ensure the children's safety which may be effective for no more

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degradation, or other similar purpose; or (g) the sexual exploitation of a child, which includes the act of a child offering to engage in or engaging in prostitution, or the act of allowing, encouraging, or forcing a child to engage in specified acts.

<sup>70</sup> Section 1005.02(4), F.S., defines "college" or "university" as any incorporated postsecondary educational entity, and its additional locations, offering a substantially complete program that confers or offers to confer at least an associate degree requiring at least 15 semester hours or the equivalent of general education, or that furnishes or offers to furnish instruction leading toward, or prerequisite to, college credit.

<sup>71</sup> Section 120.52(7), F.S., defines "final order" as a written final decision which results from a proceeding under s. 120.56, F.S., s. 120.565, F.S., s. 120.569, F.S., s. 120.57, F.S., s. 120.573, F.S., or s. 120.574, F.S., which is not a rule, and which is not excepted from the definition of a rule, and which has been filed with the agency clerk, and includes final agency actions which are affirmative, negative, injunctive, or declaratory in form.

<sup>72</sup> Section 39.302(1), F.S.

<sup>73</sup> *Id.*

<sup>74</sup> *Id.*

<sup>75</sup> Section 39.302(1), F.S.

than 90 days without a judicial review.<sup>76</sup> The subject may petition the court for a judicial review and the court would be required to make specified findings.<sup>77</sup> Upon completion of its protective investigation, the DCF may motion the court to continue the restrictive action against the subject to ensure the children's safety.<sup>78</sup>

### ***Effect of the Bill***

The bill amends s. 39.302, F.S., with respect to institutional investigations to provide:

- The alleged perpetrator may be represented by an attorney or accompanied by another person if specified conditions are met;
- The absence of such person does not prevent the DCF from proceedings with other aspects of the investigation;
- If the institution is not operational and the child is unable to be located, the investigation must commence immediately upon the institution reopening; and
- The DCF must provide copies of all investigative reports to a state attorney or law enforcement agency upon request.

### **Critical Incident Rapid Response Team (Section 3)**

The investigative process required by critical incident rapid response teams (CIRRT) was created by the Legislature in 2014,<sup>79</sup> with the purpose of identifying root causes and quickly determining any necessary changes to existing policies and practices related to child protection and welfare.<sup>80</sup> The CIRRT must immediately investigate certain child deaths or other serious incidents.<sup>81</sup> The CIRRT is required to immediately respond to conduct an onsite investigation for any child deaths reported to the DCF if the child or another child in his or her family was the subject of verified report of suspected abuse or neglect during the previous 12 months.<sup>82</sup> The secretary has the discretion to direct an immediate investigation for other cases involving death or serious injury to a child.<sup>83</sup>

Florida law outlines the duties and composition of the teams which require cooperative agreements with other entities and organizations to facilitate their work.<sup>84</sup> The DCF secretary is required to develop guidelines and provide training to the CIRRT, and direct them to conduct a root-cause analysis for each incident.<sup>85</sup> In addition, the secretary is directed to appoint an advisory committee to conduct an independent review of the CIRRT reports and submit quarterly reports to the secretary, who is required to provide the reports to the Governor, the President of the Senate, and the Speaker of the House of Representatives.<sup>86</sup>

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<sup>76</sup> Section 39.302(2)(b), F.S.

<sup>77</sup> *Id.*

<sup>78</sup> *Id.*

<sup>79</sup> Chapter 2014-224, L.O.F.

<sup>80</sup> Section 39.2015(1), F.S.

<sup>81</sup> *Id.*

<sup>82</sup> Section 39.2015(2), F.S.

<sup>83</sup> *Id.*

<sup>84</sup> Section 39.2015(7), F.S.

<sup>85</sup> Section 39.2015(10), F.S.

<sup>86</sup> Section 39.2015(11), F.S.

This section also requires that the reports of the team be published on the DCF website.<sup>87</sup> In 2021, the CIRRT has begun investigations of four deaths of children who have verified prior reports of the child or family in the past 12 months.<sup>88</sup> Of the four investigations, a 1 ½ year old child's cause of death was determined to be drowning but the report is pending,<sup>89</sup> The other three children's death remain under investigation.<sup>90</sup>

### ***Effect of the Bill***

The bill amends s. 39.2015, F.S., requiring the CIRRT to investigate allegations of sexual abuse of a child if the child or another child in his or her family was the subject of a verified report of suspected abuse or neglect during the previous 12 months, including any child who is in the custody of or under the supervision of the DCF. It also amends the composition of the CIRRT to include a representative from a child advocacy center pursuant to s. 39.3035, F.S., who has specialized training in sexual abuse, or permits a combination of the specialists specified in s. 39.205(3), F.S., if deemed appropriate.

### **Confidentiality of Reports and Records (Section 4)**

Except as otherwise provided in ch. 39, F.S., the DCF must keep confidential all records relating to any reports of child abuse, abandonment, or neglect, including any report made to the hotline and all records generated as a result of such report.<sup>91</sup> The DCF and any entity granted access to such records are exempt<sup>92</sup> from public disclosure requirements provided for in s. 119.07(1), F.S.<sup>93</sup>

Section 39.202(2), F.S., provides that copies of reports and records, except for the name and other identifying information of the reporter unless otherwise provided in the section, may be disclosed, in part, to the following entities or individuals if specified conditions are met:

- Employees, authorized agents, or contract providers of the DCF, the Department of Health, the Agency for Persons with Disabilities, the Office of Early Learning, or county agencies responsible for carrying out certain functions;
- Criminal justice agencies of appropriate jurisdictions;
- The state attorney of the judicial circuit in which the child resides or in which the alleged abuse or neglect occurred;
- The parent or legal custodian of any child and their attorneys, including any attorney representing a child in civil or criminal proceedings;

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<sup>87</sup> Section 39.2015(9), F.S.

<sup>88</sup> The DCF, *Total Child Fatalities with a Critical Incident Rapid Response Team Response in 2021: 4*, available at <https://www.myflfamilies.com/childfatality/cirrtresults.shtml?minage=0&maxage=18&year=2021&cause=&prior12=&verified> (last visited March 1, 2021).

<sup>89</sup> *Id.*

<sup>90</sup> *Id.*

<sup>91</sup> Section 39.202(1), F.S.

<sup>92</sup> When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” Custodians of records designated as “exempt” are not prohibited from disclosing the record; rather, the exemption means that the custodian cannot be compelled to disclose the record. *See Williams v. City of Minneola*, 575 So. 2d 683, 687 (Fla. 5th DCA 1991). Custodians of records designated as “confidential and exempt” may not disclose the record except under circumstances specifically defined by the Legislature. *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

<sup>93</sup> *Id.*

- Any person alleged to have caused the child's abuse, abandonment, or neglect;
- Any appropriate official of the DCF or the Agency for Persons with Disabilities who are responsible for carrying out certain functions;

The DCF may not release the name or identifying information of a person who reports child abuse, abandonment, or neglect, except to employees of specified agencies who are carrying out certain functions, without written consent of the person reporting.<sup>94</sup> The court, state attorney, or the DCF are permitted to subpoena the reporter when deemed necessary provided the fact that such person made the report is not disclosed.<sup>95</sup> Any person who reports child abuse or neglect may request at the time of the report to receive notice of the result of the protective investigation, and any person listed in s. 39.201(1), F.S., who makes a report in his or her official capacity may also request a written summary of the outcome of the investigation which shall be mailed to the reporter within 10 days after the investigation is completed.<sup>96</sup>

Chapter 39, F.S., is silent on whether the Florida Legislature or their committee members may have access to the confidential reports and records. Section 11.143(2), F.S., however, provides that each committee has the right and authority to inspect and investigate, in part, the books, records, papers, documents, data, and operation of any public agency in Florida, including confidential information, to carry out its duty.

### ***Effect of the Bill***

The bill amends s. 39.202(2)(u), F.S., to include members of standing or select legislative committees as persons who are entitled to have access to the confidential reports and records, except for reporter name and identifying information unless permitted, to carry out their duties as provided for in s. 11.143(2), F.S. Access to the records must be granted within 7 business upon request of the member.

### **Animal Cruelty and Child Abuse (Sections 6 and 13-17)**

Recent studies suggest a link between animal<sup>97</sup> abuse and harm to other persons.<sup>98</sup> Statistics support a connection between animal cruelty and violence against other humans:

- Animal abusers are five times as likely to harm humans;<sup>99</sup>
- 60% of families under investigation for child abuse, and 88% for physical child abuse, reported animal cruelty;<sup>100</sup> and

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<sup>94</sup> Section 39.202(5), F.S.

<sup>95</sup> *Id.*

<sup>96</sup> *Id.*

<sup>97</sup> Section 828.27(1)(a), F.S., defines "animal" as any living dumb creature.

<sup>98</sup> See Animal Legal Defense Fund, *The Link Between Cruelty to Animals and Violence Toward Humans*, available at <https://aldf.org/article/the-link-between-cruelty-to-animals-and-violence-toward-humans-2/> (hereinafter cited as "The ALDF Article") (last visited March 1, 2021).

<sup>99</sup> The ALDF Article.

<sup>100</sup> The National Sheriffs' Association, *Animal Cruelty and child Abuse*, available at <https://www.sheriffs.org/Animal-Cruelty-and-Child-Abuse> (last visited February 28, 2021).

- Children who abuse animals are 2-3 times more likely to have been abused themselves.<sup>101</sup>

While some researchers disagree,<sup>102</sup> the National School Safety Council, the U.S. Department of Education, the American Psychological Association, and the National Crime Prevention Council agree that animal cruelty is a warning sign for at-risk youth. A number of studies have drawn links between the abuse of animals and violent incidents in schools.<sup>103</sup>

### ***Animal Control Ordinances***

Government municipalities have the authority to enact ordinances relating to animal control or cruelty within certain specified restrictions or criteria that must be met.<sup>104</sup> If a person violates such duly enacted ordinance, a citation<sup>105</sup> may be issued by an officer,<sup>106</sup> including an animal control officer.

“Animal control officer” means any person employed or appointed by a county or municipality who is authorized to investigate, on public or private property, civil infractions relating to animal control or cruelty<sup>107</sup> and to issue citations.<sup>108</sup>

Animal control officers are required to complete a 40-hour minimum standards training course, which must cover specified topics,<sup>109</sup> and 4 hours of post-certification every 2 years thereafter.<sup>110</sup> Animal control officers are not currently required to receive training on child abuse, abandonment, or neglect.

### ***Cross-Reporting***

A study reported in 1983 found that there are parallels between the potential origins of violence to children and to animals.<sup>111</sup> In a sample of pet-owning child-abusers, 88 percent of the families

<sup>101</sup> Lardeiri, A., U.S. News and World Report, *Juvenile Animal Abusers More Likely to Have Been Abused Themselves*, available at <https://www.usnews.com/news/national-news/articles/2018-07-16/juvenile-animal-abusers-more-likely-to-have-been-abused-themselves> (last visited February 28, 2021).

<sup>102</sup> Psychology Today, *Animal Cruelty Does Not Predict Who Will Be A School Shooter*, February 21, 2018, available at <https://www.psychologytoday.com/us/blog/animals-and-us/201802/animal-cruelty-does-not-predict-who-will-be-school-shooter> (last visited March 1, 2021).

<sup>103</sup> The Humane Society of the United States *Animal cruelty and human violence FAQ*, available at <https://www.humanesociety.org/resources/animal-cruelty-and-human-violence-faq> (last visited March 1, 2021).

<sup>104</sup> Section 828.27(2), F.S.

<sup>105</sup> Section 828.27(1)(f), F.S., defines “citation” as a written notice, issued to a person by an officer, that the officer has probable cause to believe that the person has committed a civil infraction in violation of a duly enacted ordinance and that the county court will hear the charge.

<sup>106</sup> Section 828.27(1)(e), F.S., defines “officer” as any law enforcement officer defined in s. 943.10, F.S., or any animal control officer. Section 943.10(1), F.S., defines “law enforcement officer” to mean any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws.

<sup>107</sup> Section 828.27(1)(d), F.S., defines “cruelty” means any act of neglect, torture, or torment that causes unjustifiable pain or suffering of an animal.

<sup>108</sup> Section 828.27(1)(b), F.S.

<sup>109</sup> Section 828.27(4)(a)1., F.S.

<sup>110</sup> Section 828.27(4)(a)3., F.S.

<sup>111</sup> DeViney, E., Dickert, J., & Lockwood, R (1983), *The Care of Pets within Child Abusing Families*, International Journal for the Study of Animal Problems, 4, p. 321-329, 328, available at

where child abuse had occurred also abused the animals.<sup>112</sup> A six-year “gold standard” study conducted in 11 cities found that pet abuse is one of four predictors of domestic violence.<sup>113</sup> More than 50% of women entering domestic violence shelters reported that their partners abused or killed a family pet.<sup>114</sup>

Several states have adopted cross-reporting laws that require officials investigating child abuse to report animal abuse and officials investigating animal abuse to report child abuse.<sup>115</sup> At least 28 states have counseling provisions in their laws relating to animal cruelty. Four of these states require a person convicted of animal cruelty to participate in psychological counseling and six of them mandate counseling for juveniles convicted of animal cruelty.<sup>116</sup>

The Florida Statutes are silent on cross-reporting of known or suspected child abuse, abandonment, or neglect and instances of animal cruelty.

### ***Sexual Activities Involving Animals***

Approximately 46 states have criminal laws that prohibit sexual conduct with animals.<sup>117</sup> Hawaii, New Mexico, West Virginia, and Wyoming do not have state laws against sexual assault of animals.<sup>118</sup> A study of incidents from 1975 to 2015 found that 31.6% of animal sex offenders also sexually offended against adults and children.<sup>119</sup> Of these offenders, 52.9% had a prior conviction involving human sexual abuse, animal abuse, interpersonal violence, substances or property offenses.<sup>120</sup>

Section 828.126(2), F.S., provides that a person may not knowingly:

- Engage in any sexual conduct or sexual contact with an animal;

[https://www.wellbeingintlstudiesrepository.org/cgi/viewcontent.cgi?article=1014&=&context=acwp\\_apaw&=&sei-redir=1&referer=https%253A%252F%252Fwww.bing.com%252Fsearch%253Fq%253DDeViney%252C%252BE.%252C%252BDickert%252C%252BJ.%252C%252B%252526%252B%252C%252BR%252B%25281983%2529%252B%2525E2%252580%25259CThe%252Bcare%252Bof%252Bpets%252Bwithin%252Bchild%252Babusing%252Bfamilies.%2525E2%252580%25259D%252BInternational%252BJournal%252Bfor%252Bthe%252BStudy%252Bof%252BAnimal%252BProblems%2526src%253DIE-SearchBox%2526FORM%253DIE%2526search=%22DeViney%2C%20E.%2C%20Dickert%2C%20J.%2C%20%26%20Lockwood%2C%20R.%20%281983%29%20%25E2%80%9CThe%20care%20pets%20within%20child%20abusing%20families.%25E2%80%9D%20International%20Journal%20Study%20Animal%20Problems%22](https://www.wellbeingintlstudiesrepository.org/cgi/viewcontent.cgi?article=1014&=&context=acwp_apaw&=&sei-redir=1&referer=https%253A%252F%252Fwww.bing.com%252Fsearch%253Fq%253DDeViney%252C%252BE.%252C%252BDickert%252C%252BJ.%252C%252B%252526%252B%252C%252BR%252B%25281983%2529%252B%2525E2%252580%25259CThe%252Bcare%252Bof%252Bpets%252Bwithin%252Bchild%252Babusing%252Bfamilies.%2525E2%252580%25259D%252BInternational%252BJournal%252Bfor%252Bthe%252BStudy%252Bof%252BAnimal%252BProblems%2526src%253DIE-SearchBox%2526FORM%253DIE%2526search=%22DeViney%2C%20E.%2C%20Dickert%2C%20J.%2C%20%26%20Lockwood%2C%20R.%20%281983%29%20%25E2%80%9CThe%20care%20pets%20within%20child%20abusing%20families.%25E2%80%9D%20International%20Journal%20Study%20Animal%20Problems%22) (last visited March 1, 2021).

<sup>112</sup> *Id.* at 327.

<sup>113</sup> The Humane Society of the United States, *Animal Cruelty and Human Violence FAQ*, available at <https://www.humanesociety.org/resources/animal-cruelty-and-human-violence-faq> (last visited March 1, 2021) (hereinafter cited as “Animal Cruelty and Human Violence”).

<sup>114</sup> *Id.*

<sup>115</sup> American Veterinary Medical Association, *Cross-reporting of Animal and Child Abuse*, April 2018, available at <https://www.avma.org/advocacy/state-local-issues/cross-reporting-animal-and-child-abuse> (last visited March 1, 2021).

<sup>116</sup> Animal Cruelty and Human Violence.

<sup>117</sup> Michigan State University, Animal Legal & Historical Center, *Table of State Animal Sexual Assault Laws*,

<sup>118</sup> Animal Legal Defense Fund, *Laws Against the Sexual Assault of Animals*, available at <https://aldf.org/project/sexual-assault-of-animals/> (last visited March 1, 2021).

<sup>119</sup> The Journal of the American Academy of Psychiatry and the Law, *Arrest and Prosecution of Animal Sex Abuse (Bestiality) Offenders in the United States, 1975 – 2015*, May 2019, available at <http://jaapl.org/content/early/2019/05/16/JAAPL.003836-19> (last visited March 1, 2021).

<sup>120</sup> *Id.*

- Cause, aid, or abet another person to engage in any sexual conduct or sexual contact with an animal;
- Permit any sexual conduct to sexual contact with an animal to be conducted on any premises under his or her charge or control; or
- Organize, promote, conduct, advertise, aid, abet, participate in as an observer, or perform any service in the furtherance of an act involving any sexual conduct or sexual contact with an animal for a commercial or recreational purpose.

“Sexual conduct” is defined as any touching or fondling by a person, either directly or through clothing, of the sex organs or anus of an animal or any transfer or transmission of semen by the person upon any part of the animal for the purpose of sexual gratification or arousal of the person.<sup>121</sup>

“Sexual contact” is defined as any contact, however slight, between the mouth, sex organ, or anus of a person and the sex organ or anus of an animal, or any penetration, however slight, of any part of the body of the person into the sex organ or anus of an animal, or any penetration of the sex organ or anus of the person into the mouth of the animal, for the purpose of sexual gratification or sexual arousal of the person.<sup>122</sup>

Current law provides that a person who violates s. 828.126(2), F.S., commits a first degree misdemeanor.<sup>123</sup> Section 828.126, F.S., does not apply to accepted animal husbandry practices, conformation judging practices, or accepted veterinary medical practices.<sup>124</sup> Animal husbandry is not defined under s. 828.126, F.S.

### ***Sexual Performance by a Child***

A person is also guilty of a second degree felony<sup>125</sup> if he or she, knowing the character and content, promotes<sup>126</sup> a sexual performance<sup>127</sup> by a child, who is younger than 18 years old, and produces, directs, or promotes a performance<sup>128</sup> that includes any sexual conduct.<sup>129</sup>

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<sup>121</sup> Section 828.126(1)(a), F.S.

<sup>122</sup> Section 828.126(1)(b), F.S.

<sup>123</sup> A first degree misdemeanor is punishable by up to one year in imprisonment or a \$1,000 fine as provided for in s. 775.082, F.S., or s. 775.083, F.S.

<sup>124</sup> Section 828.126(4), F.S.

<sup>125</sup> A second degree felony is punishable by up to 15 years in imprisonment or a \$10,000 fine as provided for in s. 775.082, F.S., s. 775.083, F.S., or s. 775.084, F.S.

<sup>126</sup> Section 827.071(1)(d), F.S., provides that “promote” means to procure, manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmute, publish, distribute, circulate, disseminate, present, exhibit, or advertise or to offer to agree to do the same.

<sup>127</sup> Section 827.071(1)(i), F.S., defines “sexual performance” as any performance or part thereof which includes sexual conduct by a child of less than 18 years of age.

<sup>128</sup> Section 827.071(1)(c), F.S., defines “performance” as any play, motion picture, photograph, or dance or any other visual representation exhibited before an audience.

<sup>129</sup> Section 827.071(3), F.S.

“Sexual conduct” means the actual or simulated<sup>130</sup> sexual intercourse, deviate sexual intercourse,<sup>131</sup> sexual bestiality, masturbation, or sadomasochistic abuse;<sup>132</sup> actual lewd exhibition of the genitals; actual physical contact with a person’s clothed or unclothed genitals, pubic area, buttocks, or, if such person is female, breast, with the intent to arouse or gratify the sexual desire of either party; or any act or conduct which constitutes sexual battery<sup>133</sup> or simulates that sexual battery is being or will be committed.<sup>134</sup> “Sexual bestiality” means any sexual act between a person and an animal involving the sex organ of the one and the mouth, anus, or vagina of the other.<sup>135</sup>

A person who possesses with intent to promote any photograph, motion picture, exhibition, show, representation, or other presentation which includes any sexual conduct by a child is guilty of a second degree felony.<sup>136</sup> Possession of three or more copies of such materials is prima facie evidence of an intent to promote.<sup>137</sup>

Any person who knowingly possesses, controls, or intentionally views<sup>138, 139</sup> a photograph, motion picture, exhibition, show, representation, image, data, computer depiction, or other presentation,<sup>140</sup> which he or she knows to include any sexual conduct by a child commits a third degree felony.<sup>141</sup>

These criminal provisions do not apply to material possessed, controlled, or intentionally viewed as part of a law enforcement investigation<sup>142</sup> and do not prohibit prosecution for such conduct under other laws of Florida, including laws with greater penalties.<sup>143</sup>

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<sup>130</sup> Section 827.071(1)(j), F.S., defines “simulated” as any performance or part thereof which includes sexual conduct by a child of less than 18 years old.

<sup>131</sup> Section 827.071(1)(a), F.S., defines “deviate sexual intercourse” as sexual conduct between persons not married to each other consisting of contact between the penis and the anus, the mouth and the penis, or the mouth and the vulva.

<sup>132</sup> Section 827.071(1)(e), F.S., defines “sadomasochistic abuse” as flagellation or torture by or upon a person, or the condition of being fettered, bound, or otherwise physically restrained, for the purpose of deriving sexual satisfaction from inflicting harm on another or receiving such harm oneself.

<sup>133</sup> Section 827.071(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; however, “sexual battery” does not include an act done for a bona fide medical purpose.

<sup>134</sup> Section 827.071(1)(h), F.S. A mother’s breastfeeding of her baby does not under any circumstances constitute “sexual conduct.” *Id.*

<sup>135</sup> Section 827.071(1)(g), F.S.

<sup>136</sup> Section 827.071(4), F.S.

<sup>137</sup> *Id.*

<sup>138</sup> Each of these acts of each such photograph, motion picture, exhibition, show, image, data, computer depiction, representation, or presentation is a separate offense. Section 827.01(5)(a), F.S.

<sup>139</sup> Section 827.071(1)(b) defines “intentionally view” as deliberately, purposefully, and voluntarily view. Proof of intentionally viewing requires establishing more than a single image, motion picture, exhibition, show, image, data, computer depiction, representation, or other presentation over any period of time. *Id.*

<sup>140</sup> Each child engaging in sexual conduct in each of these mediums is a separate offense. Section 827.01(5)(a), F.S.

<sup>141</sup> Section 827.071(5)(a), F.S.

<sup>142</sup> Section 827.071(5)(b), F.S.

<sup>143</sup> Section 827.071(6), F.S.

### ***Criminal Punishment Code***

The Criminal Punishment Code (Code) is Florida's primary sentencing policy.<sup>144</sup> Noncapital felonies sentenced under the Code receive an offense severity level ranking (Levels 1-10).<sup>145</sup> Points are assigned and accrue based upon the level ranking assigned to the primary offense, additional offenses, and prior offenses. Sentence points escalate as the level escalates. Points may also be added or multiplied for other factors such as victim injury or the commission of certain offenses like a Level 7 or 8 drug trafficking offense. The lowest permissible sentence is any nonstate prison sanction in which total sentence points equal or are less than 44 points, unless the court determines that a prison sentence is appropriate. If total sentence points exceed 44 points, the lowest permissible sentence in prison months is calculated by subtracting 28 points from the total sentence points and decreasing the remaining total by 25 percent.<sup>146</sup> Absent mitigation,<sup>147</sup> the permissible sentencing range under the Code is generally the lowest permissible sentence scored up to and including the maximum penalty provided under s. 775.082, F.S.

Except as otherwise provided by law, the statutory maximum sentence for an offense committed, which is classified as a:

- Capital felony is:
  - Death, if the proceeding held according to the procedure set forth in s. 921.141, F.S., results in a determination that it is appropriate for the person to be punished by death; or
  - Life imprisonment without the possibility of parole.
- Life felony is a term of imprisonment for life or by imprisonment for a term of years not exceeding life imprisonment.
- First degree felony is:
  - 30 years; or
  - Imprisonment for a term of years not exceeding life imprisonment when specifically provided by statute.
- Second degree felony is 15 years.
- Third degree felony is 5 years.<sup>148</sup>

The promotion of a sexual performance by a child punishable under s. 827.071(3), F.S., is a level 6 offense. Possession with intent to promote materials which contain sexual conduct by a child punishable under s. 827.071(4), F.S., and materials possessed, controlled or intentionally viewed which contain a child engaging in sexual conduct punishable under s. 827.071(5), F.S., are level 5 offenses.<sup>149</sup>

<sup>144</sup> Sections 921.002-921.0027, F.S. See chs. 97-194 and 98-204, L.O.F. The Code is effective for offenses committed on or after October 1, 1998.

<sup>145</sup> Offenses are either ranked in the offense severity level ranking chart in s. 921.0022, F.S., or are ranked by default based on a ranking assigned to the felony degree of the offense as provided in s. 921.0023, F.S.

<sup>146</sup> Section 921.0024, F.S. Unless otherwise noted, information on the Code is from this source.

<sup>147</sup> The court may "mitigate" or "depart downward" from the scored lowest permissible sentence if the court finds a mitigating circumstance. Section 921.0026, F.S., provides a list of mitigating circumstances.

<sup>148</sup> See s. 775.082, F.S.

<sup>149</sup> Section 921.0022(3), F.S.

***Effect of the Bill*****Cross-Reporting (Sections 6, 13, and 16)**

The bill also provides legislative findings in the newly created s. 39.208, F.S., and in an unnumbered section of law that recognizes that animal cruelty is a type of interpersonal violence which frequently co-occurs with child abuse and other forms of family violence, and that early detection of animal cruelty provides:

- An important tool to safeguard children from abuse and neglect;
- Needed support to families; and
- Protection of animals.

The bill provides that the Legislature finds training of protective investigators and animal care and control personnel should include information on the link between the welfare of animals in the family and child safety and protection. The Legislature intends to require reporting and cross-reporting and collaborative training between these personnel to promote the safety and well-being of children, their families, and their animals.

The bill creates s. 39.208, F.S., establishing new cross-reporting requirements where, in short, child protective investigators are required to report any known or suspected animal cruelty, and animal control officers are required to report any known or suspected child abuse, abandonment, or neglect, or any child who is without care and supervision.

Child protective investigators are required to report known or suspected incidents of animal cruelty within 72 hours to his or her supervisor for submission to a local animal control agency. The report must include:

- A description of the animal and animal cruelty;
- The name and address of the animal's owner or keeper, if available; and
- Any other available information that might assist in determining the cause of the animal cruelty and the manner in which it occurred.

A child protective investigator who makes a report is presumed to be acting in good faith and, if he or she cooperates in an investigation, is immune from any civil or criminal liability or administrative penalty or sanction that might otherwise be incurred. A protective investigator who knowingly and willfully fails to report known or suspected animal cruelty as provided under a new s. 39.208, F.S., commits a second degree misdemeanor.<sup>150</sup>

The bill also requires animal control officers to immediately report any known or suspected child abuse, abandonment, or neglect immediately. An animal control officer who knowingly and willfully fails to report known or suspected child abuse, abandonment, or neglect as provided under s. 39.208, F.S., is subject to the penalties imposed in s. 39.205, F.S., as described above.

The bill requires the DCF, in consultation with the Florida Animal Control Association (FACA), to develop or adapt existing training materials to provide a 1-hour training for all child protective investigators and animal control officers on child abuse, abandonment, or neglect or animal

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<sup>150</sup> A second degree misdemeanor is punishable by up to 60 days imprisonment or \$500 fine under s. 775.082, F.S., or s. 775.083, F.S.

cruelty, and the interconnectedness of such abuse or neglect. The DCF must include in the training to child protective investigators information on how to identify harm to and neglect of animals, and the relationship of such activities to child welfare case practice. Training provided to animal control officers must advise them of the mandatory duty to report under s. 39.208(3), F.S., and s. 39.201, F.S., and the criminal penalties for failing to report as provided for in s. 39.205, F.S.

Animal control officers are required to complete the 1-hour training course, and they must be given the opportunity to complete it during normal work hours.<sup>151</sup>

The bill requires the DCF to adopt rules to implement this section.

The DCF reports that investigators have reported suspected incidents of animal abuse, neglect, or cruelty or abandonment of an animal to the local animal control officer.<sup>152</sup> It also reports that as of October 17, 2019, it did not have a training developed in conjunction with the FACA that educates on child abuse and animal cruelty.<sup>153</sup>

#### Sexual Activities Involving Animals (Sections 15 and 17)

The bill deletes the definition of “sexual conduct” under s. 828.126(1)(a), F.S. and removes reference to it from the section. The definition is replaced with a definition of “animal husbandry” which includes the day-to-day care of, selective breeding of, and the raising of livestock that is commonly defined as domesticated animals or animals raised for agricultural purposes and that is located on land used for bona fide agricultural purposes as defined in s. 193.431(3)(b), F.S.

The definition of “sexual contact” under this section is amended to be the definition of “sexual contact with an animal” and means any act committed between a person and an animal for the purpose of sexual gratification, abuse, or financial gain which involves:

- Contact between the sex organ or anus of one and the mouth, sex organ, or anus of the other;
- The fondling of the sex organ or anus of an animal; or
- The insertion, however slight, of any part of the body of a person or any object into the vaginal or anal opening of an animal, or the insertion of any part of the body of an animal into the vaginal or anal opening of a person.

The bill amends s. 828.126(2)(d), F.S., relating to an offense of sexual activities involving animals to read that a person may not “knowingly organize, promote, conduct, aid, abet, participate in as an observer, or advertise, offer, solicit or accept an offer of an animal for purposes of sexual contact with such animal, or perform any service in the furtherance of an act involving any sexual contact with an animal.” The words underlined have been added and the words “for a commercial or recreational purpose” have been deleted.

<sup>151</sup> Section 828.27(4)(a)2., F.S.

<sup>152</sup> The DCF SB7000 (2020) Analysis at p. 3.

<sup>153</sup> *Id.*

The bill also includes another act which gives rise to a criminal violation under s. 828.126, F.S., namely, to knowingly film, distribute, or possess pornographic images of a person and an animal engaged in any of the activities prohibited as described above.

In addition to these penalties, the bill provides that the court must make an order prohibiting for up to five years from the date of conviction, regardless of whether adjudication is withheld, a person convicted of having sexual contact with an animal from:

- Harboring, owning, possessing, or exercising control over any animal;
- Residing in any household where animals are present;
- Engaging in an occupation, whether paid or unpaid, or participating in a volunteer position at any establishment where animals are present.

The bill adds an exception to the criminal conduct for artificial insemination of an animal for reproductive purposes.

The bill reclassifies the offense from a first degree misdemeanor to a third degree felony punishable. The bill amends s. 921.0022, F.S., making the offense of sexual activities involving animals a level 6 on the Offense Severity Ranking Chart.

#### Sexual Performance by a Child (Section 14)

The bill amends the definition of “sexual bestiality” to a definition of “sexual contact with an animal.” The definition of “sexual contact with an animal” is amended to have the same meaning as in s. 828.126, F.S., when an adult encourages or forces such act to be committed between a child and an animal. The reference to “sexual bestiality” under the definition of “sexual conduct” is amended to “sexual contact with an animal.”

#### **Multidisciplinary Legal Representation (Section 9)**

Multidisciplinary legal representation models (MLRM) have been adopted in states around country, including The Vermont Parent Representation Center, the Center for Family Representation, the Bronx Defenders, and the Detroit Center for Family Advocacy.<sup>154</sup> While the traditional legal practice in the United States is to have a solo attorney represent a client, the MLRM promotes a team of individuals, including social workers and parent advocates.<sup>155</sup> A study by the Bronx Defenders that examined more than 28,000 New York dependency cases between 2007 and 2014 found that full implementation of the MLRM would save an estimated \$40 million per year for the foster care system.<sup>156</sup> This same study suggests that representation

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<sup>154</sup> The Children’s Bureau Express, *Collaborating to Build Multidisciplinary, Family-Centered, Strengths-Based Courts*, May 2020, available at

<https://cbexpress.acf.hhs.gov/index.cfm?event=website.viewArticles&issueid=216&sectionid=17&articleid=5558> (last visited March 1, 2021) (hereinafter cited as “CBE Building Multidisciplinary Teams”).

<sup>155</sup> See *Id.* Children’s Bureau Express, *New Study Shows Providing Parents with Multidisciplinary Legal Representation in Child Welfare Cases furthers Everyone’s Interests*, July/August 2019, available at

<https://cbexpress.acf.hhs.gov/index.cfm?event=website.viewArticles&issueid=208&sectionid=2&articleid=5378> (last visited March 1, 2021) (hereinafter cited as “CBE New Study”).

<sup>156</sup> NYU Law, *Providing Parents with the Right Kind of Legal Representation in Child Welfare Cases Significantly Reduces the Time Children Stay in Foster Care, New Study Finds*, May 7, 2009, available at [Providing Parents with the Right Kind of](#)

that utilized the multidisciplinary model were able to safely reunify children to their families 43% more often in their first year than solo practitioners, and 25% more often in the second year.<sup>157</sup>

The OCCCRC Fourth District of Florida currently has a Social Services Unit (SSU) it employs to enhance the legal representation to indigent parents in dependency cases.<sup>158</sup> The SSU includes a forensic social worker or forensic family advocate who are on the legal team to engage parents and guide them through the reunification process.<sup>159</sup> The OCCCRC report the SSU assist clients with tasks such as providing information about and interacting with providers, and overall describes the SSU's inclusion in the legal team as beneficial.<sup>160</sup>

### ***Family First Prevention Services Act***

In 2018, Congress enacted the Family First Prevention Services Act (FFPSA) aimed at providing financial assistance with a focus on prevention services and reducing funds to residential group care.<sup>161</sup> Title IV-E federal funding is now available for legal representation and advocacy for eligible children in foster care and their parents.<sup>162</sup> The FFPSA requirements include:

- Option to use funds for up to 12 months for evidence-based services, such as substance abuse treatment;
- Eligible candidates include children who can remain safely in the home with the provision of services, children in foster care who are parents, or parents or caregivers who require services to prevent a child's entry into foster care; and
- States must prepare a prevention plan for the child to safely remain at home with services;
- Services must be trauma-informed and pre-approved on the Health and Human Services website.<sup>163</sup>

### ***Effect of the Bill***

The bill creates s. 39.4092, F.S., to provide each OCCCRC with permission to establish a MLRM program and make provisions for program requirements that must be met if a program is established to serve families in dependency cases. The bill provides the following legislative findings:

- MLRM is effective in reducing safety risks to children and providing families with better outcomes;

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[Legal Representation in Child Welfare Cases Significantly Reduces the Time Children Stay in Foster Care, New Study Finds | NYU School of Law](#) (last visited March 1, 2021) (hereinafter cited as "NYU Article").

<sup>157</sup> *Id.*

<sup>158</sup> The OCCCRC Fourth District of Florida, *Social Services Unit*, available at <http://www.rc-4.com/social-services.shtml> (last visited March 1, 2021).

<sup>159</sup> *Id.*

<sup>160</sup> *Id.*

<sup>161</sup> The DCF, *The Florida Center for Child Welfare FFPSA Updates*, available at <http://centerforchildwelfare.fmhi.usf.edu/FFPSA.shtml> (last visited March 1, 2021).

<sup>162</sup> U.S. Department of Health and Human Services, Administration for Children and Families, *High Quality Memo*, p. 10-11, January 14, 2021, available at [https://www.courts.ca.gov/documents/ffdrp\\_acf2021\\_high\\_quality\\_memo.pdf](https://www.courts.ca.gov/documents/ffdrp_acf2021_high_quality_memo.pdf) (last visited March 1, 2021).

<sup>163</sup> The DCF, *Family First Prevention Services Act*, p. 26, August 28, 2020, available at [http://centerforchildwelfare.fmhi.usf.edu/kb/prevplans/FFPSA-StatewideWebinar8\\_28\\_2020.pdf](http://centerforchildwelfare.fmhi.usf.edu/kb/prevplans/FFPSA-StatewideWebinar8_28_2020.pdf) (last visited March 1, 2021).

- Addressing challenges faced by parents, such as mental illness or substance abuse disorder, in a manner that achieves stability often falls within the core functions of the practice of social work;
- Social work professionals have a unique skill set, including the client assessment and clinical knowledge, which allows them to interact and engage with clients in meaningful and unique ways, and quickly connect with families facing crises;
- Parent-peer specialists who assist parents with successfully navigating the child welfare system are a great benefit to the dependency system;
- Current federal provisions authorize the reimbursement of half the cost of attorneys for parents and children in eligible cases; and
- It is necessary to encourage and facilitate the use of MLRMs to improve outcomes and provide the best opportunities to families who are involved in the dependency system.

The bill provides that the DCF must collaborate with the OCCCRC regional counsel to implement a MLRM program and provide funding with available matching federal funds to eligible families involved in the dependency system. The bill provides a MLRM program must, at minimum:

- Include a team that consists of a lawyer, a forensic social worker, and a parent-peer specialist, which is defined as a person who has:
  - Previously had his or her child removed and placed into out-of-home care;
  - Been successfully reunified with the child for more than two years;
  - Received specialized training;
- Engage in cost-sharing agreements to maximize financial resources and enable access to federal funding;
- Provide specialized training for team members;
- Collect uniform data on each child whose parent is served by the program and ensure that reporting of data is conducted through the child's FINS/fin identification number,<sup>164</sup> if applicable;
- Develop consistent operational program policies and procedures throughout the region;
- Obtain agreements with universities relating to approved placements for social work students to ensure the placement of social workers in the program; and
- Execute conflict of interest agreements with each team member.

The bill requires each OCCCRC that establishes a MLRM program and meets the program requirements to provide an annual report to the Office of Program Policy Analysis and Government Accountability (OPPAGA). The report must include data on all of the families served by the MLRM program and the following details:

- Reasons for the original involvement of the family in the dependency system;

<sup>164</sup> The FSN system is Florida's implementation of the Statewide and Tribal Automated Child Welfare Information Systems (SACWIS/TACWIS), which is a federally funded data collection system. All states were required to collect and report particular information to the federal government. States had the option of creating a SACWIS model in order to comply with these federal reporting requirements or they may implement an alternative data collection model. This information was then compiled into the Adoption and Foster Care Analysis and Reporting System and the National Child Abuse and Neglect Data System. Both systems are made publicly available on the Children's Bureau's Child Welfare Outcomes Report Data website. See the National Conference of State Legislatures, *Child Welfare Information Systems*, June 25, 2020, available at <https://www.ncsl.org/research/human-services/child-welfare-information-systems.aspx> (last visited March 1, 2021).

- Length of time it takes to achieve a permanency goal for the children whose parents are served by the program;
- Frequency of each type of permanency goal achieved by parents that are served by the program;
- Rate of re-abuse or re-removal of children whose parents are served by the program; and
- Any other relevant factors that tend to show the impact that MLRM programs have on the outcomes for children in the dependency system, provided each region that has established such a program agrees to uniform additional factors and how to collect data on such additional factors in the annual report.

The bill provides that the first report must be submitted by October 1, 2022, and annually thereafter, to the OPPAGA, which must compile the results of such reports and compare the reported outcomes from the MLRM to known outcomes of children in the dependency system who are not served by the MLRM program. The OPPAGA must submit a report by December 1, 2022, and annually thereafter, a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

The bill provides the OCCCRC may adopt rules to administer this section.

### **Child Advocacy Centers (Section 8)**

Child advocacy centers must meet specified criteria to become eligible for membership in the Florida Network of Children’s Advocacy Centers, Inc. (hereinafter cited as “FNCAC”),<sup>165</sup> a statewide nonprofit membership organization.<sup>166</sup> In addition, child advocacy center staff must be trained and meet background screening requirements in accordance with s. 39.001(1), F.S.,<sup>167</sup> which the FNCAC is responsible for ensuring compliance.<sup>168</sup> State and federal funding of these centers is contingent on them meeting the eligibility criteria and the staff receiving the necessary training and screening, and Florida law includes provisions on allocation of funds and how they should be distributed to the centers.<sup>169</sup> Child advocacy centers are required to prepare annual reports with specified information and submit them to the FNCAC, who is then required to compile reports from the centers and provide a report to the President of the Senate and the Speaker of the House of Representatives in August of each year.<sup>170</sup>

The FNCAC is an Accredited State Chapter of the National Children’s Alliance and represents all local children’s advocacy centers in Florida.<sup>171</sup> It reports that there are 27 children’s advocacy centers that serve 85 percent of the children and families in Florida.<sup>172</sup> The map below illustrates

<sup>165</sup> Section 39.3035(1), F.S.

<sup>166</sup> FNCAC, *About Us*, available at <https://www.fncac.org/about-us> (last visited March 1, 2021) (hereinafter cited as “FNCAC About Us”).

<sup>167</sup> Employees must complete a level 2 background screening pursuant to ch. 435, F.S.

<sup>168</sup> Section 39.3035(2), F.S.

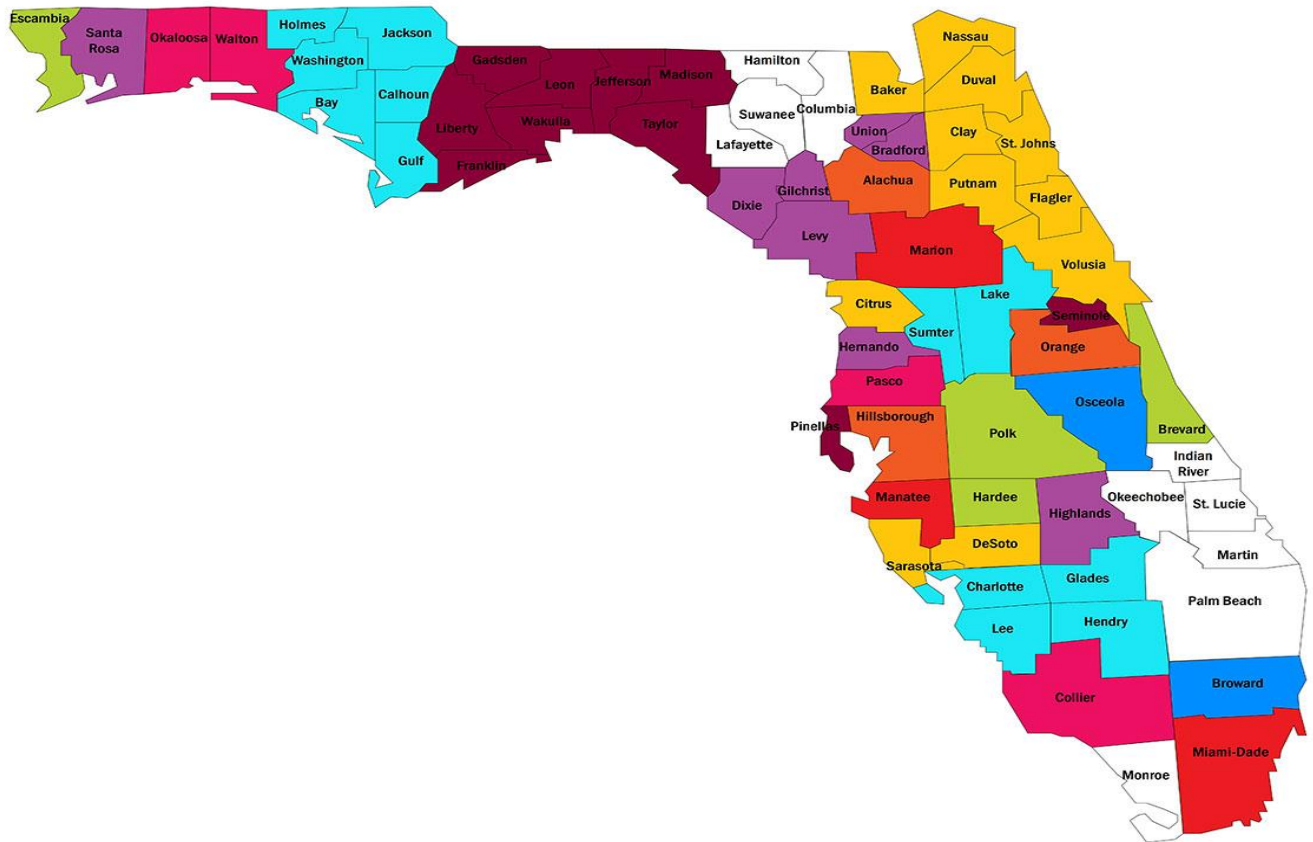
<sup>169</sup> Section 39.3035(3)(a) and (b), F.S.

<sup>170</sup> Section 39.3035(3)(c), F.S.

<sup>171</sup> The FNCAC About Us.

<sup>172</sup> *Id.*

the counties serviced by the centers.<sup>173</sup>



Florida Children Advocacy Centers provide the following services, including, but not limited to:

- Forensic interviews;
- Crisis intervention and support services;
- Medical evaluations;
- Multidisciplinary review of cases;
- Evidenced-based prevention and intervention programs; and
- Professional training and community education.<sup>174</sup>

In 2018, the Florida Children Advocacy Centers served over 34,000 children who were victims of child abuse and neglect as follows:

- 20,259 received therapy services;
- 17,297 received crisis intervention services;
- 11,120 medical evaluations; and
- 10,675 forensic/specialized interviews.<sup>175</sup>

<sup>173</sup> FNCAC, *County Coverage Map*, available at <https://www.fncac.org/county-coverage-map> (last visited March 1, 2021).

<sup>174</sup> The FNCAC, *What is a CAC*, available at <https://www.fncac.org/what-cac> (last visited March 1, 2021).

<sup>175</sup> FNCAC, *Impact of Children's Advocacy Centers on Child Abuse and Neglect*, available at <https://www.fncac.org/impact-childrens-advocacy-centers-child-abuse-and-neglect> (last visited February 26, 2021).

An analysis conducted by the National Children’s Advocacy Center in Huntsville, Alabama in 2015 suggests that the children’s advocacy center model saves approximately \$1,000 per case in services during the course of a child abuse investigation.<sup>176</sup>

### ***Effect of the Bill***

The bill amends s. 39.3035, F.S., clarifying that the functions of child advocacy centers include facilities that offer multidisciplinary services in a community-based and child-focused environment to victims of child abuse or neglect. The bill also provides that children served by such centers may have experienced a variety of types of abuse or neglect, such as sexual abuse or severe physical pain, and suggests that the centers bring together protective investigators, law enforcement, prosecutors, and medical and mental health professionals to provide a collaborated response to victims and families.

### **Parenting Partnerships (Sections 10-12)**

Section 409.1415, F.S., provides for parenting partnerships among caregivers and birth or legal parents when children are in out-of-home care to provide quality support and encourage reunification.<sup>177</sup> The DCF and community-based care lead agencies<sup>178</sup> (hereinafter referred to as “lead agencies”) are required to support parenting partnerships when it is safe and in the child’s best interest by taking specified steps to facilitate, develop plans, and support contact between caregivers and birth or legal parents.<sup>179</sup> Section 409.1415(2)(b), F.S., requires the DCF, lead agencies, caregivers, and birth or legal parents to work cooperatively and comply with specified requirements including, in part:

- They must interact professionally with one another;
- They must develop a case plan together;
- Under s. 409.1415(2)(b)6., F.S., the DCF and lead agencies must provide a caregiver with the services and support they need; and
- Under s. 409.1415(2)(b)15., F.S., a caregiver must ensure that a child in his or her custody between 13 and 17 years old learns independent living skills.<sup>180</sup>

The Foster Parent information Center (FPIC) helps individuals become foster parents.<sup>181</sup> The FPIC provides information, answers questions, and connects potential foster parents with local resources.<sup>182</sup> Any person who wishes to be a foster parent must meet specified conditions with which the FPIC will assist.<sup>183</sup>

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<sup>176</sup> *Id.*

<sup>177</sup> Section 409.1415(1), F.S.

<sup>178</sup> The DCF operates a community-based care child welfare system that outsources foster care and related services to agencies with an increased local community ownership to enhance accountability, resource development, and system performance. The DCF contracts with community-based care lead agencies (lead agency) to provide direct or indirect child welfare services. The DCF, *Community-Based Care*, available at <https://www.myflfamilies.com/service-programs/community-based-care/overview.shtml> (last visited March 1, 2011).

<sup>179</sup> Section 409.1415(2)(a), F.S.

<sup>180</sup> Section 409.1415(2)(b), F.S.

<sup>181</sup> The DCF, *Foster Care, How Do I Become a Foster Parent?*, available at <https://www.myflfamilies.com/service-programs/foster-care/how-do-I.shtml> (last visited March 1, 2021).

<sup>182</sup> *Id.*

<sup>183</sup> *Id.*

### ***Foster Parent Support***

Section 409.1453, F.S. requires the DCF in collaboration with the Florida Foster and Adoptive Parent Association (FAPA)<sup>184</sup> and the Quality Parenting Initiative (QPI)<sup>185</sup> to design and disseminate training for caregivers on life skills necessary for youth in out-of-home care.

Section 409.1753, F.S., provides that the DCF must ensure that, within each district, each foster parent is provided with a telephone number to call during normal working hours when immediate assistance is required and the caseworker is unavailable. This number must be staffed by individuals who have the knowledge and authority necessary to assist foster parents.<sup>186</sup>

### ***Effect of the Bill***

The bill amends s. 409.1415(2)(b)6., F.S., to specify that the services and support that must be provided to a caregiver are provided for in a new subsection created in s. 409.1415(3), F.S., which provides:

- The DCF must establish a Foster Parent Information Center to facilitate contact between former and current foster parents, known as foster parent advocates, to current and prospective foster parents to provide information and services, including but not limited to:
  - Assisting with the application and approval process, including timelines for each, preparing to transition a child into the home, and providing prospective foster parents with information with resources available in the community;
  - Accessing available resources and services, including those available from the Florida Foster and Adoptive Parent Association;
  - Providing information specific to a foster parent's individual needs; and
  - Providing immediate assistance when necessary.<sup>187</sup>
- The lead agencies must provide a caregiver with resources and supports that are available and discuss whether the caregiver meets any eligibility criteria. If the caregiver is unable to access resources, the lead agencies must assist the caregiver in initiating access to the following resources:
  - Providing referrals to kinship navigation services;
  - Assisting with linkages to community resources and completion of program applications;
  - Scheduling appointments, and

<sup>184</sup> The FAPA is a membership organization for foster, adoptive, and other caregivers in Florida. Its aim is, in part, to educate caregivers and parents, and promote a spirit of cooperation of all entities involved in the child welfare system. FAPA provides support and resources to caregivers to help develop healthy families. The DCF, *Foster Care*, available at <https://www.myflfamilies.com/service-programs/foster-care/support-fostering.shtml>. Florida FAPA, *About FloridaFAPA*, available at <http://floridafapa.org/about-us/> (all sites last visited March 1, 2021).

<sup>185</sup> The QPI is a national movement for foster care change which focuses on creating a system that gives parents the tools to provide excellent parenting every day. The QPI system requires the support and involvement of birth families, relative caregivers, foster families, young people, and others in the child welfare system. It consists of a network of states, including Florida, as well as counties and private agencies that are committed to ensuring all children in care have excellent parenting and lasting relationships so they can thrive and grow. Florida implemented this program as a pilot in 2008. The QPI, *What is QPI*, January 2021, available at <https://www.qpi4kids.org/what-is-qpi/>; The QPI Florida, *No Place Like Home*, October 22, 2010, available at <http://centerforchildwelfare.fmhi.usf.edu/qpi1/docs/ReviewOfQPI2011.pdf>. The DCF, *Independent Living, The Quality Parenting Initiative, Frequently Asked Questions*, available at <https://www.myflfamilies.com/service-programs/independent-living/myfuturemychoice-fp-faqs.shtml> (all sites last visited March 1, 2021).

<sup>186</sup> Section 409.1753, F.S.

<sup>187</sup> Section 409.1415(3)(a), F.S.

- Initiating contact with community service providers.<sup>188</sup>

Section 11 of the bill repeals s. 409.1453, F.S, that requires the DCF's to provide caregivers with life skills training, and relocates it to the current s. 409.1415(2)(b)15., F.S., with slightly modified language but substantially the same law.

Section 12 of the bill repeals Section 409.1753, F.S., that requires the DCF to provide foster parents with a telephone number for immediate assistance, and relocates it to this new subsection in s. 409.1415(3)(b)2., F.S.

### **Conforming Sections (Sections 19-22)**

The bill amends ss. 39.301, 119.071, 322.09, and 934.03., F.S., conforming references to the changes made by this act.

The bill is effective of October 1, 2021.

## **IV. Constitutional Issues:**

### **A. Municipality/County Mandates Restrictions:**

None.

### **B. Public Records/Open Meetings Issues:**

None.

### **C. Trust Funds Restrictions:**

None.

### **D. State Tax or Fee Increases:**

None.

### **E. Other Constitutional Issues:**

None identified.

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

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

None.

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<sup>188</sup> Section 409.1415(3)(b)1., F.S.

**B. Private Sector Impact:**

The bill provides that an instructional personnel or school administrator who fails to comply with the mandatory reporting requirements of s. 39.201, F.S., under specified instances must have his or her certificate suspended. To the extent that this occurs, he or she may experience a loss of income due to his or her educator certificate being suspended for at least one year.<sup>189</sup>

**C. Government Sector Impact:**

SB 7000 (2020) had an identical provision requiring the development of training by the DCF, in collaboration with FACA, to provide to child protective investigators and animal control officers, which the DCF agency analysis stated would cost an estimated \$35,000 to develop.<sup>190</sup> This includes costs for research and front end analysis.

The bill makes increases the penalty for the offense of sexual activities involving animals to a third degree felony. The Criminal Justice Impact Conference with the Office of Economic and Demographic Research has not yet met to review the bill's impact on the state's prison population. To the extent that this results in additional persons being convicted and sentenced to prison, the bill will likely result in a positive insignificant prison bed impact (i.e. an increase of 10 or fewer beds).

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 39.201, 39.2015, 39.202, 39.205, 39.301, 39.302, 39.3035, 119.071, 322.09, 409.1415, 827.071, 828.126, 828.27, 921.0022, 943.03, 1012.795, and 1012.796.

This bill creates the following sections of the Florida Statutes: 39.101, 39.208, and 39.4092.

This bill repeals the following sections of the Florida Statutes: 409.1453 and 409.1753.

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<sup>189</sup> The Department of Education, *Agency Analysis for SB 7000 (2020)*, p. 4, October 29, 2019 (on file with the Senate Committee on Children, Families, and Elder Affairs). SB 7000 (2020) had a provision which resulted in the teaching certificate for an instructional teacher or administrator being suspended or revoked in certain instances.

<sup>190</sup> The DCF SB7000 (2020) Analysis at p. 7–8.

**IX. Additional Information:**

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

**CS by Children, Families, and Elder Affairs on March 2, 2021:**

The committee substitute makes a technical change to the effective date.

- B. **Amendments:**

None.

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

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652936

LEGISLATIVE ACTION

|            |   |       |
|------------|---|-------|
| Senate     | . | House |
| Comm: RCS  | . |       |
| 03/02/2021 | . |       |
|            | . |       |
|            | . |       |
|            | . |       |

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

**Senate Amendment (with directory and title amendments)**

Between lines 118 and 119  
insert:

(g) If 5 years or more, or 3 years or more in the case of a certified peer specialist or an individual seeking certification as a peer specialist pursuant to s. 397.417, have elapsed since an applicant for an exemption from disqualification has completed or has been lawfully released from confinement, supervision, or a nonmonetary condition imposed by a court for



652936

the applicant's most recent disqualifying offense, the applicant may work with adults with substance use disorders, mental health disorders, or co-occurring disorders under the supervision of persons who meet all personnel requirements of this chapter for up to 180 ~~90~~ days after being notified of his or her disqualification or until the department makes a final determination regarding his or her request for an exemption from disqualification, whichever is earlier.

===== D I R E C T O R Y   C L A U S E   A M E N D M E N T =====

And the directory clause is amended as follows:

Delete lines 97 - 98

and insert:

Section 2. Paragraphs (a) and (g) of subsection (1) of section 397.4073, Florida Statutes, are amended to read:

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

And the title is amended as follows:

Delete line 9

and insert:

specialists; revising authorizations relating to work by applicants who have committed disqualifying offenses; amending s. 397.417, F.S.; providing



207404

LEGISLATIVE ACTION

| Senate     | . | House |
|------------|---|-------|
| Comm: RCS  | . |       |
| 03/02/2021 | . |       |
|            | . |       |
|            | . |       |
|            | . |       |

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

**Senate Amendment (with title amendment)**

Delete lines 196 - 249  
and insert:  
department shall screen the results to determine if a peer specialist meets certification requirements. The applicant is responsible for all fees charged in connection with state and federal fingerprint processing and retention. The state cost for fingerprint processing shall be as provided in s. 943.053(3)(e) for records provided to persons or entities other than those



207404

specified as exceptions therein. Fingerprints submitted to the Department of Law Enforcement pursuant to this paragraph shall be retained as provided in s. 435.12 and, when the Department of Law Enforcement begins participation in the program, enrolled in the Federal Bureau of Investigation's national retained fingerprint arrest notification program, as provided in s. 943.05(4). Any arrest record identified must be reported to the department.

(b) The department or the Agency for Health Care Administration, as applicable, may contract with one or more vendors to perform all or part of the electronic fingerprinting pursuant to this section. Such contracts must ensure that the owners and personnel of the vendor performing the electronic fingerprinting are qualified and will ensure the integrity and security of all personal identifying information.

(c) Vendors who submit fingerprints on behalf of employers must:

1. Meet the requirements of s. 943.053; and  
2. Have the ability to communicate electronically with the state agency accepting screening results from the Department of Law Enforcement and provide the applicant's full first name, middle initial, and last name; social security number or individual taxpayer identification number; date of birth; mailing address; sex; and race.

(d) The background screening conducted under this subsection must ensure that a peer specialist has not, during the previous 3 years, been arrested for and is awaiting final disposition of, been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to,



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or been adjudicated delinquent and the record has not been sealed or expunged for, any felony.

(e) The background screening conducted under this subsection must ensure that a peer specialist has not been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or been adjudicated delinquent and the record has not been sealed or expunged for, any offense prohibited under any of the following state laws or similar laws of another jurisdiction:

1. Section 393.135, relating to sexual misconduct with certain developmentally disabled clients and reporting of such sexual misconduct.

2. Section 394.4593, relating to sexual misconduct with certain mental health patients and reporting of such sexual misconduct.

3. Section 409.920, relating to Medicaid provider fraud, if the offense was a felony of the first or second degree.

4. Section 415.111, relating to abuse, neglect, or exploitation of vulnerable adults.

5. Any offense that constitutes domestic violence as defined in s. 741.28.

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

And the title is amended as follows:

Delete line 32

and insert:

fingerprints to specified entities; requiring the department to screen results to determine if the peer specialist meets the certification requirements;



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69

requiring that

By Senator Rouson

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A bill to be entitled

An act relating to mental health and substance use disorders; amending s. 394.4573, F.S.; providing that the use of peer specialists is an essential element of a coordinated system of care in recovery from a substance use disorder or mental illness; making a technical change; amending s. 397.4073, F.S.; revising background screening requirements for certain peer specialists; amending s. 397.417, F.S.; providing legislative findings and intent; revising requirements for certification as a peer specialist; requiring the Department of Children and Families to develop a training program for peer specialists and to give preference to trainers who are certified peer specialists; requiring the training program to coincide with a competency exam and to be based on current practice standards; requiring the department to certify peer specialists, either directly or by approving a third-party credentialing entity; requiring that a person providing recovery support services be certified or be supervised by a licensed behavioral health care professional or a certified peer specialist; authorizing the department, a behavioral health managing entity, or the Medicaid program to reimburse a peer specialist service as a recovery service; encouraging Medicaid managed care plans to use peer specialists in providing recovery services; requiring peer specialists and certain persons to meet the requirements of a background

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screening as a condition of employment and continued employment; requiring certain entities to forward fingerprints to specified entities; requiring that fees for state and federal fingerprint processing be borne by the peer specialist applying for employment; requiring that any arrest record identified through background screening be reported to the department; authorizing the department or certain other agencies to contract with certain vendors for fingerprinting; specifying requirements for vendors; specifying disqualifying offenses for a peer specialist who applies for certification; authorizing a person who does not meet background screening requirements to request an exemption from disqualification from the department or the agency; providing that a peer specialist certified as of the effective date of this act is deemed to satisfy the requirements of this act; providing an effective date.

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

Section 1. Paragraph (1) of subsection (2) and subsection (3) of section 394.4573, Florida Statutes, are amended to read:

394.4573 Coordinated system of care; annual assessment; essential elements; measures of performance; system improvement grants; reports.—On or before December 1 of each year, the department shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives an assessment of the behavioral health services in this state. The

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assessment shall consider, at a minimum, the extent to which designated receiving systems function as no-wrong-door models, the availability of treatment and recovery services that use recovery-oriented and peer-involved approaches, the availability of less-restrictive services, and the use of evidence-informed practices. The assessment shall also consider the availability of and access to coordinated specialty care programs and identify any gaps in the availability of and access to such programs in the state. The department's assessment shall consider, at a minimum, the needs assessments conducted by the managing entities pursuant to s. 394.9082(5). Beginning in 2017, the department shall compile and include in the report all plans submitted by managing entities pursuant to s. 394.9082(8) and the department's evaluation of each plan.

(2) The essential elements of a coordinated system of care include:

(1) Recovery support, including, but not limited to, the use of peer specialists to assist in the individual's recovery from a substance use disorder or mental illness; support for competitive employment, educational attainment, independent living skills development, family support and education, wellness management, and self-care; ~~and~~ and assistance in obtaining housing that meets the individual's needs. Such housing may include mental health residential treatment facilities, limited mental health assisted living facilities, adult family care homes, and supportive housing. Housing provided using state funds must provide a safe and decent environment free from abuse and neglect.

(3) ~~SYSTEM IMPROVEMENT GRANTS.~~ Subject to a specific

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appropriation by the Legislature, the department may award system improvement grants to managing entities based on a detailed plan to enhance services in accordance with the no-wrong-door model as defined in subsection (1) and to address specific needs identified in the assessment prepared by the department pursuant to this section. Such a grant must be awarded through a performance-based contract that links payments to the documented and measurable achievement of system improvements.

Section 2. Paragraph (a) of subsection (1) of section 397.4073, Florida Statutes, is amended to read:

397.4073 Background checks of service provider personnel.—

(1) PERSONNEL BACKGROUND CHECKS; REQUIREMENTS AND EXCEPTIONS.—

(a) For all individuals screened on or after July 1, 2021 ~~2019~~, background checks shall apply as follows:

1. All owners, directors, chief financial officers, and clinical supervisors of service providers are subject to level 2 background screening as provided under s. 408.809 and chapter 435. Inmate substance abuse programs operated directly or under contract with the Department of Corrections are exempt from this requirement.

2. All service provider personnel who have direct contact with children receiving services or with adults who are developmentally disabled receiving services are subject to level 2 background screening as provided under s. 408.809 and chapter 435.

3. All peer specialists who have direct contact with individuals receiving services are subject to a background

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117 screening as provided in s. 397.417(5) level 2 background  
118 screening as provided under s. 408.809 and chapter 435.

119 Section 3. Section 397.417, Florida Statutes, is amended to  
120 read:

121 397.417 Peer specialists.—

122 (1) LEGISLATIVE FINDINGS AND INTENT.—

123 (a) The Legislature finds that:

124 1. The ability to provide adequate behavioral health  
125 services is limited by a shortage of professionals and  
126 paraprofessionals.

127 2. The state is experiencing an increase in opioid  
128 addictions, many of which prove fatal.

129 3. Peer specialists provide effective support services  
130 because they share common life experiences with the persons they  
131 assist.

132 4. Peer specialists promote a sense of community among  
133 those in recovery.

134 5. Research has shown that peer support facilitates  
135 recovery and reduces health care costs.

136 6. Persons who are otherwise qualified to serve as peer  
137 specialists may have a criminal history that prevents them from  
138 meeting background screening requirements.

139 (b) The Legislature intends to expand the use of peer  
140 specialists as a cost-effective means of providing services. The  
141 Legislature also intends to ensure that peer specialists meet  
142 specified qualifications and modified background screening  
143 requirements and are adequately reimbursed for their services.

144 (2) QUALIFICATIONS.—

145 (a) A person may seek certification as a peer specialist if

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146 he or she has been in recovery from a substance use disorder or  
147 mental illness for the past 2 years or if he or she is a family  
148 member or caregiver of a person with a substance use disorder or  
149 mental illness.

150 (b) To obtain certification as a peer specialist, a person  
151 must complete the training program developed under subsection  
152 (3), achieve a passing score on the competency exam described in  
153 paragraph (3)(a), and meet the background screening requirements  
154 specified in subsection (5).

155 (3) DUTIES OF THE DEPARTMENT.—

156 (a) The department shall develop a training program for  
157 persons seeking certification as peer specialists. The  
158 department must give preference to trainers who are certified  
159 peer specialists. The training program must coincide with a  
160 competency exam and be based on current practice standards.

161 (b) The department may certify peer specialists directly or  
162 may approve one or more third-party credentialing entities for  
163 the purposes of certifying peer specialists, approving training  
164 programs for individuals seeking certification as peer  
165 specialists, approving continuing education programs, and  
166 establishing the minimum requirements and standards applicants  
167 must meet to maintain certification.

168 (c) The department shall require that a person providing  
169 recovery support services be certified; however, an individual  
170 who is not certified may provide recovery support services as a  
171 peer specialist for up to 1 year if he or she is working toward  
172 certification and is supervised by a qualified professional or  
173 by a certified peer specialist who has at least 2 years of full-  
174 time experience as a peer specialist at a licensed behavioral

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health organization.

(4) PAYMENT.—Recovery support services may be reimbursed as a recovery service through the department, a behavioral health managing entity, or the Medicaid program. Medicaid managed care plans are encouraged to use peer specialists in providing recovery services.

(5) BACKGROUND SCREENING.—

(a) A peer specialist, or an individual who is working toward certification and providing recovery support services as provided in subsection (3), must have completed or have been lawfully released from confinement, supervision, or any nonmonetary condition imposed by the court for any felony and must undergo a background screening as a condition of initial and continued employment. The applicant must submit a full set of fingerprints to the department or to a vendor, an entity, or an agency that enters into an agreement with the Department of Law Enforcement as provided in s. 943.053(13). The department, vendor, entity, or agency shall forward the fingerprints to the Department of Law Enforcement for state processing and the Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for national processing. The applicant is responsible for all fees charged in connection with state and federal fingerprint processing and retention. The state cost for fingerprint processing shall be as provided in s. 943.053(3)(e) for records provided to persons or entities other than those specified as exceptions therein. Fingerprints submitted to the Department of Law Enforcement pursuant to this paragraph shall be retained as provided in s. 435.12 and, when the Department of Law Enforcement begins participation in the

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program, enrolled in the Federal Bureau of Investigation's national retained fingerprint arrest notification program, as provided in s. 943.05(4). Any arrest record identified must be reported to the department.

(b) The department or the Agency for Health Care Administration, as applicable, may contract with one or more vendors to perform all or part of the electronic fingerprinting pursuant to this section. Such contracts must ensure that the owners and personnel of the vendor performing the electronic fingerprinting are qualified and will ensure the integrity and security of all personal identifying information.

(c) Vendors who submit fingerprints on behalf of employers must:

1. Meet the requirements of s. 943.053; and
2. Have the ability to communicate electronically with the department or the Agency for Health Care Administration, as applicable, and to accept screening results from the Department of Law Enforcement and provide the applicant's full first name, middle initial, and last name; social security number or individual taxpayer identification number; date of birth; mailing address; sex; and race.

(d) The background screening conducted under this subsection must ensure that a peer specialist has not, during the previous 3 years, been arrested for and is awaiting final disposition of, been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or been adjudicated delinquent and the record has not been sealed or expunged for, any felony.

(e) The background screening conducted under this

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subsection must ensure that a peer specialist has not been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or been adjudicated delinquent and the record has not been sealed or expunged for, any offense prohibited under any of the following state laws or similar laws of another jurisdiction:

1. Section 393.135, relating to sexual misconduct with certain developmentally disabled clients and reporting of such sexual misconduct.

2. Section 394.4593, relating to sexual misconduct with certain mental health patients and reporting of such sexual misconduct.

3. Section 409.920, relating to Medicaid provider fraud, if the offense was a felony of the first or second degree.

4. Section 415.111, relating to abuse, neglect, or exploitation of vulnerable adults.

5. Section 741.28, relating to domestic violence.

6. Section 777.04, relating to attempts, solicitation, and conspiracy to commit an offense listed in this paragraph.

7. Section 782.04, relating to murder.

8. Section 782.07, relating to manslaughter, aggravated manslaughter of an elderly person or a disabled adult, aggravated manslaughter of a child, or aggravated manslaughter of an officer, a firefighter, an emergency medical technician, or a paramedic.

9. Section 782.071, relating to vehicular homicide.

10. Section 782.09, relating to killing an unborn child by injury to the mother.

11. Chapter 784, relating to assault, battery, and culpable

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negligence, if the offense was a felony.

12. Section 787.01, relating to kidnapping.

13. Section 787.02, relating to false imprisonment.

14. Section 787.025, relating to luring or enticing a child.

15. Section 787.04(2), relating to leading, taking, enticing, or removing a minor beyond state limits, or concealing the location of a minor, with criminal intent pending custody proceedings.

16. Section 787.04(3), relating to leading, taking, enticing, or removing a minor beyond state limits, or concealing the location of a minor, with criminal intent pending dependency proceedings or proceedings concerning alleged abuse or neglect of a minor.

17. Section 790.115(1), relating to exhibiting firearms or weapons within 1,000 feet of a school.

18. Section 790.115(2)(b), relating to possessing an electric weapon or device, a destructive device, or any other weapon on school property.

19. Section 794.011, relating to sexual battery.

20. Former s. 794.041, relating to prohibited acts of persons in familial or custodial authority.

21. Section 794.05, relating to unlawful sexual activity with certain minors.

22. Section 794.08, relating to female genital mutilation.

23. Section 796.07, relating to procuring another to commit prostitution, except for those offenses expunged pursuant to s. 943.0583.

24. Section 798.02, relating to lewd and lascivious

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291 behavior.

292 25. Chapter 800, relating to lewdness and indecent  
293 exposure.

294 26. Section 806.01, relating to arson.

295 27. Section 810.02, relating to burglary, if the offense  
296 was a felony of the first degree.

297 28. Section 810.14, relating to voyeurism, if the offense  
298 was a felony.

299 29. Section 810.145, relating to video voyeurism, if the  
300 offense was a felony.

301 30. Section 812.13, relating to robbery.

302 31. Section 812.131, relating to robbery by sudden  
303 snatching.

304 32. Section 812.133, relating to carjacking.

305 33. Section 812.135, relating to home-invasion robbery.

306 34. Section 817.034, relating to communications fraud, if  
307 the offense was a felony of the first degree.

308 35. Section 817.234, relating to false and fraudulent  
309 insurance claims, if the offense was a felony of the first or  
310 second degree.

311 36. Section 817.50, relating to fraudulently obtaining  
312 goods or services from a health care provider and false reports  
313 of a communicable disease.

314 37. Section 817.505, relating to patient brokering.

315 38. Section 817.568, relating to fraudulent use of personal  
316 identification, if the offense was a felony of the first or  
317 second degree.

318 39. Section 825.102, relating to abuse, aggravated abuse,  
319 or neglect of an elderly person or a disabled adult.

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320       40. Section 825.1025, relating to lewd or lascivious  
321 offenses committed upon or in the presence of an elderly person  
322 or a disabled person.

323       41. Section 825.103, relating to exploitation of an elderly  
324 person or a disabled adult, if the offense was a felony.

325       42. Section 826.04, relating to incest.

326       43. Section 827.03, relating to child abuse, aggravated  
327 child abuse, or neglect of a child.

328       44. Section 827.04, relating to contributing to the  
329 delinquency or dependency of a child.

330       45. Former s. 827.05, relating to negligent treatment of  
331 children.

332       46. Section 827.071, relating to sexual performance by a  
333 child.

334       47. Section 831.30, relating to fraud in obtaining  
335 medicinal drugs.

336       48. Section 831.31, relating to sale, manufacture,  
337 delivery, possession with intent to sell, manufacture, or  
338 deliver of any counterfeit controlled substance, if the offense  
339 was a felony.

340       49. Section 843.01, relating to resisting arrest with  
341 violence.

342       50. Section 843.025, relating to depriving a law  
343 enforcement, correctional, or correctional probation officer of  
344 the means of protection or communication.

345       51. Section 843.12, relating to aiding in an escape.

346       52. Section 843.13, relating to aiding in the escape of  
347 juvenile inmates of correctional institutions.

348       53. Chapter 847, relating to obscenity.

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349       54. Section 874.05, relating to encouraging or recruiting  
350 another to join a criminal gang.

351       55. Chapter 893, relating to drug abuse prevention and  
352 control, if the offense was a felony of the second degree or  
353 greater severity.

354       56. Section 895.03, relating to racketeering and collection  
355 of unlawful debts.

356       57. Section 896.101, relating to the Florida Money  
357 Laundering Act.

358       58. Section 916.1075, relating to sexual misconduct with  
359 certain forensic clients and reporting of such sexual  
360 misconduct.

361       59. Section 944.35(3), relating to inflicting cruel or  
362 inhuman treatment on an inmate resulting in great bodily harm.

363       60. Section 944.40, relating to escape.

364       61. Section 944.46, relating to harboring, concealing, or  
365 aiding an escaped prisoner.

366       62. Section 944.47, relating to introduction of contraband  
367 into a correctional institution.

368       63. Section 985.701, relating to sexual misconduct in  
369 juvenile justice programs.

370       64. Section 985.711, relating to introduction of contraband  
371 into a detention facility.

372       (6) EXEMPTION REQUESTS.—A person who wishes to become a  
373 peer specialist and is disqualified under subsection (5) may  
374 request an exemption from disqualification pursuant to s. 435.07  
375 from the department or the Agency for Health Care  
376 Administration, as applicable.

377       (7) GRANDFATHER CLAUSE.—A peer specialist certified as of

19-00143-21

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the effective date of this act is deemed to satisfy the  
requirements of this act

~~(1) An individual may seek certification as a peer specialist if he or she has been in recovery from a substance use disorder or mental illness for at least 2 years, or if he or she has at least 2 years of experience as a family member or caregiver of a person with a substance use disorder or mental illness.~~

~~(2) The department shall approve one or more third party credentialing entities for the purposes of certifying peer specialists, approving training programs for individuals seeking certification as peer specialists, approving continuing education programs, and establishing the minimum requirements and standards that applicants must achieve to maintain certification. To obtain approval, the third party credentialing entity must demonstrate compliance with nationally recognized standards for developing and administering professional certification programs to certify peer specialists.~~

~~(3) An individual providing department-funded recovery support services as a peer specialist shall be certified pursuant to subsection (2). An individual who is not certified may provide recovery support services as a peer specialist for up to 1 year if he or she is working toward certification and is supervised by a qualified professional or by a certified peer specialist who has at least 3 years of full-time experience as a peer specialist at a licensed behavioral health organization.~~

Section 4. This act shall take effect July 1, 2021.

## The Florida Senate COMMITTEE VOTE RECORD

**COMMITTEE:** Children, Families, and Elder Affairs  
**ITEM:** SB 130  
**FINAL ACTION:** Favorable with Committee Substitute  
**MEETING DATE:** Tuesday, March 2, 2021  
**TIME:** 4:00—6:00 p.m.  
**PLACE:** 37 Senate Building

[illegible]

CODES: FAV=Favorable  
UNF=Unfavorable  
-R=Reconsidered

RCS=Replaced by Committee Substitute  
RE=Replaced by Engrossed Amendment  
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed  
VA=Vote After Roll Call  
VC=Vote Change After Roll Call

WD=Withdrawn  
OO=Out of Order  
AV=Abstain from Voting

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

Duplicate

THE FLORIDA SENATE

APPEARANCE RECORD

3-2-21

Meeting Date

SB 130

Bill Number (if applicable)

652936

Amendment Barcode (if applicable)

Topic Mental Health and Substance Use Disorders

Name Steve Leifman

Job Title Judge

Address 1351 N.W. 12th Street

Street

Miami

City

Florida

State

33125

Zip

Phone (305) 548-5394

Email

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Steering Committee on Problem-Solving Courts

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 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

3/2/21  
Meeting Date

SB 130  
Bill Number (if applicable)

Topic MENTAL HEALTH AND SUBSTANCE USE DISORDER

Name NATALIE KELLY

Amendment Barcode (if applicable)

Job Title CEO

Address 122 SOUTH CALHOUN STREET  
Street

Phone 850) 895-1313

TALLAHASSEE FL 32301  
City State Zip

Email NATALIE@FLMANAGING ENTITIES.COM

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing FLORIDA ASSOCIATION OF MANAGING ENTITIES

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/2/21

Meeting Date

SB130

Bill Number (if applicable)

Topic Substance Abuse Peer

Name Neal McGarry

Job Title CEO

Address 1715 S. Gadsden Street

Street

Phone 850-222-6314

Tall

City

FL

State

32301

Zip

Email \_\_\_\_\_

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Certification Board

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.**

**YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM**

**THE FLORIDA SENATE**

**APPEARANCE RECORD**

March 2, 2021

*Meeting Date*

130

*Bill Number (if applicable)*

Topic Mental Health & Substance Abuse Disorders

*Amendment Barcode (if applicable)*

Name Barney Bishop III

Job Title Chief Executive Officer

Address 2215 Thomasville Road

Phone 850.510.9922

*Street*

Tallahassee

FL

32308

Email barney@barneybishop.com

*City*

*State*

*Zip*

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Smart Justice Allaince

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 (10/14/14)

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE  
**APPEARANCE RECORD**

03/02/2021  
Meeting Date

130  
Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name Clay Meenan

Job Title Government Relations Coordinator

Address \_\_\_\_\_  
Street

Phone 682-276-5245

City

State

Zip

Email Claym@fha.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Hospital Association

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 (10/14/14)

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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

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BILL: CS/SB 130

INTRODUCER: Children, Families, and Elder Affairs and Senator Rouson

SUBJECT: Mental Health and Substance Use Disorders

DATE: March 3, 2021

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

|    | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------|
| 1. | Delia   | Cox            | CF        | CS/Fav |
| 2. |         |                | AHS       |        |
| 3. |         |                | AP        |        |

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 130 promotes the use of peer specialists to assist an individual's recovery from substance use disorder or mental illness. Peer specialists are persons who have recovered from a substance use disorder or mental illness who support a person with a current substance use disorder or mental illness.

Specifically, the bill:

- Adds the use of peer specialists as an essential element of a coordinated system of care;
- Provides legislative findings and intent related to the use of peer specialists in the provision of behavioral health care;
- Requires the Department of Children and Families (the DCF) to develop a training program for peer specialists, giving preference to trainers who are certified peer specialists;
- Requires the DCF to certify peer specialists, directly or through the use of a third-party credentialing entity;
- Revises background screening requirements and codifies existing training and certification requirements for peer specialists;
- Adds offenses for which individuals seeking certification as a peer specialist may seek an exemption from eligibility disqualification;
- Allows peer specialists to work with adults with mental health disorders, in addition to SUDs and co-occurring disorders, while a request for an exemption from a background check disqualification is pending.

- Expands the statutory limit for the number of days during which a service provider can work while a request for exemption from a background check disqualification is pending to 180 days from the current 90 days.
- Allows for recovery support services to be reimbursed as a recovery service through the DCF, a behavioral health managing entity, or the Medicaid program.
- Provides that individuals certified as peer specialists by July 1, 2021, will be deemed to have met the requirements for certification under the bill.

The DCF's Office of Administrative Services estimates there may be an indeterminate, negative fiscal impact on state government resulting from a potential increase in background screenings, and an indeterminate, positive fiscal impact on private sector providers offering certification. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2021.

## II. Present Situation:

### Substance Abuse

Substance abuse is the harmful or hazardous use of psychoactive substances, including alcohol and illicit drugs. Substance use disorder (SUD) is determined based on specified criteria included in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5).<sup>1</sup> According to the DSM-5, a diagnosis of SUD is based on evidence of impaired control, social impairment, risky use, and pharmacological criteria.<sup>2</sup> SUD occurs when an individual chronically uses alcohol or drugs, resulting in significant impairment, such as health problems, disability, and failure to meet major responsibilities at work, school, or home.<sup>3</sup> Repeated drug use leads to changes in the brain's structure and function that can make a person more susceptible to developing a substance abuse disorder.<sup>4</sup> Imaging studies of brains belonging to persons with SUD reveal physical changes in areas of the brain critical to judgment, decision making, learning and memory, and behavior control.<sup>5</sup>

In 2018, approximately 20.3 million people aged 12 or older had a SUD related to corresponding use of alcohol or illicit drugs within the previous year, including 14.8 million people diagnosed with alcohol use disorder and 8.1 million people diagnosed with drug use disorder.<sup>6</sup> The most

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<sup>1</sup> The World Health Organization, *Mental Health and Substance Abuse*, available at <https://www.who.int/westernpacific/about/how-we-work/programmes/mental-health-and-substance-abuse>; the National Institute on Drug Abuse (NIDA), *The Science of Drug Use and Addiction: The Basics*, available at <https://www.drugabuse.gov/publications/media-guide/science-drug-use-addiction-basics> (last visited February 21, 2021).

<sup>2</sup> The National Association of Addiction Treatment Providers, *Substance Use Disorder*, available at <https://www.naatp.org/resources/clinical/substance-use-disorder> (last visited February 21, 2021).

<sup>3</sup> The Substance Abuse and Mental Health Services Administration (The SAMHSA), *Substance Use Disorders*, <http://www.samhsa.gov/disorders/substance-use> (last visited February 21, 2021).

<sup>4</sup> The NIDA, *Drugs, Brains, and Behavior: The Science of Addiction*, available at <https://www.drugabuse.gov/publications/drugs-brains-behavior-science-addiction/drug-abuse-addiction> (last visited February 21, 2021).

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

<sup>6</sup> The SAMHSA, *Key Substance Use and Mental Health Indicators in the United States: Results from the 2018 National Survey on Drug Use and Health*, p. 2, available at <https://www.samhsa.gov/data/sites/default/files/cbhsq-reports/NSDUHNationalFindingsReport2018/NSDUHNationalFindingsReport2018.pdf> (last visited February 23, 2021).

common substance abuse disorders in the United States are from the use of alcohol, tobacco, cannabis, opioids, hallucinogens, and stimulants.<sup>7</sup>

### ***Substance Abuse Treatment in Florida***

In the early 1970s, the federal government enacted laws creating formula grants for states to develop continuums of care for individuals and families affected by substance abuse.<sup>8</sup> The laws resulted in separate funding streams and requirements for alcoholism and drug abuse. In response to the laws, the Florida Legislature enacted chs. 396 and 397, F.S., relating to alcohol and drug abuse, respectively.<sup>9</sup> Each of these laws governed different aspects of addiction, and thus had different rules promulgated by the state to fully implement the respective pieces of legislation.<sup>10</sup> However, because persons with substance abuse issues often do not restrict their misuse to one substance or another, having two separate laws dealing with the prevention and treatment of addiction was cumbersome and did not adequately address Florida's substance abuse problem.<sup>11</sup> In 1993, legislation was adopted to combine ch. 396 and 397, F.S., into a single law, the Hal S. Marchman Alcohol and Other Drug Services Act (Marchman Act).<sup>12</sup>

The Marchman Act encourages individuals to seek services on a voluntary basis within the existing financial and space capacities of a service provider.<sup>13</sup> However, denial of addiction is a prevalent symptom of SUD, creating a barrier to timely intervention and effective treatment.<sup>14</sup> As a result, treatment typically must stem from a third party providing the intervention needed for SUD treatment.<sup>15</sup>

The DCF administers a statewide system of safety-net services for substance abuse and mental health (SAMH) prevention, treatment and recovery for children and adults who are otherwise unable to obtain these services. Services are provided based upon state and federally-established priority populations.<sup>16</sup> The DCF provides treatment for SUD through a community-based provider system offering detoxification, treatment and recovery support for individuals affected by substance misuse, abuse or dependence.<sup>17</sup>

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<sup>7</sup> The Rural Health Information Hub, *Defining Substance Abuse and Substance Use Disorders*, available at <https://www.ruralhealthinfo.org/toolkits/substance-abuse/1/definition> (last visited February 23, 2021).

<sup>8</sup> The DCF, *Baker Act and Marchman Act Project Team Report for Fiscal Year 2016-2017*, p. 4-5. (on file with the Senate Children, Families, and Elder Affairs Committee).

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

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

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

<sup>12</sup> Chapter 93-39, s. 2, L.O.F., which codified current ch. 397, F.S.

<sup>13</sup> See s. 397.601(1) and (2), F.S. An individual who wishes to enter treatment may apply to a service provider for voluntary admission. Within the financial and space capabilities of the service provider, the individual must be admitted to treatment when sufficient evidence exists that he or she is impaired by substance abuse and his or her medical and behavioral conditions are not beyond the safe management capabilities of the service provider.

<sup>14</sup> Darran Duchene and Patrick Lane, *Fundamentals of the Marchman Act*, Risk RX, Vol. 6 No. 2 (Apr. – Jun. 2006) State University System of Florida Self-Insurance Programs, available at <http://flbog.sip.ufl.edu/risk-rx-article/fundamentals-of-the-marchman-act/> (last visited February 23, 2021).

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

<sup>16</sup> See chs. 394 and 397, F.S.

<sup>17</sup> The DCF, *Treatment for Substance Abuse*, available at <https://www.myflfamilies.com/service-programs/samh/substance-abuse.shtml> (last visited February 21, 2021).

- **Detoxification Services:** Detoxification services use medical and clinical procedures to assist individuals and adults as they withdraw from the physiological and psychological effects of substance abuse.<sup>18</sup>
- **Treatment Services:** Treatment services<sup>19</sup> include a wide array of assessment, counseling, case management, and support that are designed to help individuals who have lost their abilities to control their substance use on their own and require formal, structured intervention and support.<sup>20</sup>
- **Recovery Support:** Recovery support services, including transitional housing, life skills training, parenting skills, and peer-based individual and group counseling, are offered during and following treatment to further assist individuals in their development of the knowledge and skills necessary to maintain their recovery.<sup>21</sup>

### Peer Specialists

Research has shown that social support provided by peers is beneficial to those in recovery from a SUD or mental illness.<sup>22</sup> Section 397.311, F.S., defines a peer specialist as “a person who has been in recovery from a SUD or mental illness for at least 2 years who uses his or her personal experience to provide services in behavioral health settings to support others in their recovery, or a person who has at least 2 years of experience as a family member or caregiver of an individual who has a SUD or mental illness. The term does not include a qualified professional or a person otherwise certified under chapter 394 or chapter 397.”<sup>23</sup>

There are four primary types of social support provided by peers:

- Emotional: where a peer demonstrates empathy, caring or concern to bolster a person’s self-esteem. (i.e., peer mentoring or peer-led support groups).
- Informational: where a peer shares knowledge and information to provide life or vocational skills training. (i.e., parenting classes, job readiness training, or wellness seminars).
- Instrumental: where a peer provides concrete assistance to help others accomplish tasks. (i.e., child care, transportation, and help accessing health and human services).
- Affiliational: where a peer facilitates contacts with other people to promote learning of social skills, create a sense of community, and acquire a sense of belonging. (i.e., recovery centers, sports league participation, and alcohol or drug free socialization opportunities).<sup>24</sup>

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

<sup>19</sup> *Id.* Research indicates that persons who successfully complete substance abuse treatment have better post-treatment outcomes related to future abstinence, reduced use, less involvement in the criminal justice system, reduced involvement in the child-protective system, employment, increased earnings, and better health.

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

<sup>21</sup> *Id.*

<sup>22</sup> Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Treatment, *What Are Peer Recovery Support Services?*, available at <https://store.samhsa.gov/system/files/sma09-4454.pdf> (last visited February 23, 2021).

<sup>23</sup> Section 397.311(30), F.S.

<sup>24</sup> The DCF, *Florida Peer Services Handbook* at p. 4-5, 2016, available at <https://www.myflfamilies.com/service-programs/samh/publications/docs/peer-services/DCF-Peer-Guidance.pdf> (last visited February 23, 2021).

In Florida, DCF and Medicaid both allow reimbursement for peer support services but only if provided by certified peer specialists.<sup>25</sup>

An individual seeking to become a certified peer specialist must have either been in recovery from a SUD or mental illness for at least two years, or must have at least two years of experience as a family member or caregiver of an individual suffering from a substance use disorder or mental illness.<sup>26</sup> The DCF must approve one or more third-party credentialing entities for the purposes of certifying peer specialists, approving training programs for individuals seeking certification as peer specialists, approving continuing education programs, and establishing the minimum requirements and standards that applicants must achieve to maintain certification.<sup>27</sup> To obtain approval, the third-party credentialing entity must demonstrate compliance with nationally recognized standards for developing and administering professional certification programs to certify peer specialists.<sup>28</sup> All individuals providing DCF-funded recovery support services as a peer specialist must be certified, however an individual who is not currently certified may work as a peer specialist for a maximum of one year if they are working toward certification and are supervised by a qualified professional or by a certified peer specialist with at least three years of full-time experience as a peer specialist at a licensed behavioral health organization.<sup>29</sup>

The Florida Certification Board (FCB) is currently the only credentialing entity approved by the DCF for certifying peer specialists in the state.<sup>30</sup> The FCB credentials Certified Recovery Peer Specialist (CRPS) which assist in providing client directed care by helping individuals develop skills and relationships that will allow them to achieve and maintain recovery from SUDs and mental illness.<sup>31</sup> CRPS applicants must attest to having been in recovery for a minimum of two years.<sup>32</sup> The CRPS must also have demonstrated competency through training and experience in the performance domains of: Recovery Support, Advocacy, Mentoring and Professional Responsibilities.<sup>33</sup> As of June 2020, 630 individuals maintain active CRPS certifications statewide.<sup>34</sup>

Individuals seeking certification must adhere to the CRPS credentialing standards and requirements, complete a background screening, and have completed all court-ordered sanctions related to any prior crimes committed for at least three years.<sup>35</sup> Prospective CRPS must also successfully complete training and a competency exam demonstrating proficiency in certain educational areas.<sup>36</sup>

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<sup>25</sup> The DCF, *Agency Analysis for 2019 HB 369*, p. 2 February 8, 2019 (on file with the Senate Children, Families, and Elder Affairs Committee staff). Florida's Medicaid program currently covers peer recovery services; the DCF allows the state's behavioral health managing entities to reimburse for peer recovery services.

<sup>26</sup> Section 397.417(1), F.S.

<sup>27</sup> Section 397.417(2), F.S.

<sup>28</sup> *Id.*

<sup>29</sup> Section 397.417(3), F.S.

<sup>30</sup> The DCF, *Agency Analysis for SB 130*, p. 2, December 10, 2020 (on file with the Senate Children, Families, and Elder Affairs Committee staff) (hereinafter cited as, "The DCF Analysis").

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

## **Background Screening**

### ***Substance Use Disorder and Criminal History***

Certain individuals receiving substance abuse treatment may have a criminal or violent history: about 54% of state prisoners and 61% of sentenced jail inmates incarcerated for violent offenses met the Diagnostic and Statistical Manual of Mental Disorders, 4<sup>th</sup> Edition, (DSM-IV) criteria for drug dependence or abuse.<sup>37</sup> Additionally, individuals who use illicit drugs are more likely to commit crimes, and it is common for many offenses, including violent crimes, to be committed by individuals who had used drugs or alcohol prior to committing the crime, or who were using at the time of the offense.<sup>38</sup> As a result, individuals who have recovered from a SUD or mental illness often have a criminal history which may disqualify them from employment in the substance abuse treatment industry due to Florida's background screening process.

### ***Background Screening Process***

Current law establishes standard procedures for criminal history background screening of prospective employees; ch. 435, F.S., outlines the screening requirements. There are two levels of background screening: level 1 and level 2. Level 1 screening includes, at a minimum, 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,<sup>39</sup> and may include criminal records checks through local law enforcement agencies. A level 2 background screening includes, but is not limited to, fingerprinting for statewide criminal history records checks through the FDLE and national criminal history checks through the Federal Bureau of Investigation (FBI), and may include local criminal records checks through local law enforcement agencies.<sup>40</sup>

Every person required by law to be screened pursuant to ch. 435, F.S., must submit a complete set of information necessary to conduct a screening to his or her employer.<sup>41</sup> Such information for a level 2 screening includes fingerprints, which are taken by a vendor that submits them electronically to the FDLE.<sup>42</sup>

For both level 1 and 2 screenings, an employer must submit the information necessary for screening to the FDLE within five working days after receiving it.<sup>43</sup> Additionally, for both levels of screening, the FDLE must perform a criminal history record check of its records.<sup>44</sup> For a level

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<sup>37</sup> Jennifer Bronson, et al., *Drug Use, Dependence, and Abuse Among State Prisoners and Jail Inmates, 2007-2009*, U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics at p. 1, June 2017, available at <https://www.bjs.gov/content/pub/pdf/dudaspi0709.pdf> (last visited February 23, 2021).

<sup>38</sup> National Institute on Drug Abuse, *Principles of Drug Abuse Treatment for Criminal Justice Populations: A Research-Based Guide* at p. 12, available at [https://d14rmgtwzf5a.cloudfront.net/sites/default/files/txcriminaljustice\\_0.pdf](https://d14rmgtwzf5a.cloudfront.net/sites/default/files/txcriminaljustice_0.pdf) (last visited February 23, 2021).

<sup>39</sup> The Dru Sjodin National Sex Offender Public Website is a U.S. government website that links public state, territorial, and tribal sex offender registries in one national search site, available at <https://www.nsopw.gov/> (last visited February 23, 2021).

<sup>40</sup> Section 435.04, F.S.

<sup>41</sup> Section 435.05(1)(a), F.S.

<sup>42</sup> Sections 435.03(1) and 435.04(1)(a), F.S.

<sup>43</sup> Section 435.05(1)(b)-(c), F.S.

<sup>44</sup> *Id.*

1 screening, this is the only information searched, and once complete, the FDLE responds to the employer or agency, who must then inform the employee whether screening has revealed any disqualifying information.<sup>45</sup> For level 2 screening, the FDLE also requests the FBI to conduct a national criminal history record check of its records for each employee for whom the request is made.<sup>46</sup>

The person undergoing screening must supply any missing criminal or other necessary information upon request to the requesting employer or agency within 30 days after receiving the request for the information.<sup>47</sup>

### ***Disqualifying Offenses***

Regardless of whether the screening is level 1 or level 2, the screening employer or agency must make sure that the applicant has good moral character by ensuring that the employee has not been arrested for and is awaiting final disposition of, been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or been adjudicated delinquent and the record has not been sealed or expunged for, any of the following 52 offenses prohibited under Florida law, or similar law of another jurisdiction:

- Section 393.135, F.S., relating to sexual misconduct with certain developmentally disabled clients and reporting of such sexual misconduct.
- Section 394.4593, F.S., relating to sexual misconduct with certain mental health patients and reporting of such sexual misconduct.
- Section 415.111, F.S., relating to adult abuse, neglect, or exploitation of aged persons or disabled adults.
- Section 777.04, F.S., relating to attempts, solicitation, and conspiracy to commit an offense listed in this subsection.
- Section 782.04, F.S., relating to murder.
- Section 782.07, F.S., relating to manslaughter, aggravated manslaughter of an elderly person or disabled adult, or aggravated manslaughter of a child.
- Section 782.071, F.S., relating to vehicular homicide.
- Section 782.09, F.S., relating to killing of an unborn child by injury to the mother.
- Chapter 784, F.S., relating to assault, battery, and culpable negligence, if the offense was a felony.
- Section 784.011, F.S., relating to assault, if the victim of the offense was a minor.
- Section 784.03, F.S., relating to battery, if the victim of the offense was a minor.
- Section 787.01, F.S., relating to kidnapping.
- Section 787.02, F.S., relating to false imprisonment.
- Section 787.025, F.S., relating to luring or enticing a child.
- Section 787.04(2), F.S., relating to taking, enticing, or removing a child beyond the state limits with criminal intent pending custody proceedings.
- Section 787.04(3), F.S., relating to carrying a child beyond the state lines with criminal intent to avoid producing a child at a custody hearing or delivering the child to the designated person.

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<sup>45</sup> Section 435.05(1)(b), F.S.

<sup>46</sup> Section 435.05(1)(c), F.S.

<sup>47</sup> Section 435.05(1)(d), F.S.

- Section 790.115(1), F.S., relating to exhibiting firearms or weapons within 1,000 feet of a school.
- Section 790.115(2)(b), F.S., relating to possessing an electric weapon or device, destructive device, or other weapon on school property.
- Section 794.011, F.S., relating to sexual battery.
- Former s. 794.041, F.S., relating to prohibited acts of persons in familial or custodial authority.
- Section 794.05, F.S., relating to unlawful sexual activity with certain minors.
- Chapter 796, F.S., relating to prostitution.
- Section 798.02, F.S., relating to lewd and lascivious behavior.
- Chapter 800, F.S., relating to lewdness and indecent exposure.
- Section 806.01, F.S., relating to arson.
- Section 810.02, F.S., relating to burglary.
- Section 810.14, F.S., relating to voyeurism, if the offense is a felony.
- Section 810.145, F.S., relating to video voyeurism, if the offense is a felony.
- Chapter 812, F.S., relating to theft, robbery, and related crimes, if the offense is a felony.
- Section 817.563, F.S., relating to fraudulent sale of controlled substances, only if the offense was a felony.
- Section 825.102, F.S., relating to abuse, aggravated abuse, or neglect of an elderly person or disabled adult.
- Section 825.1025, F.S., relating to lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled adult.
- Section 825.103, F.S., relating to exploitation of an elderly person or disabled adult, if the offense was a felony.
- Section 826.04, F.S., relating to incest.
- Section 827.03, F.S., relating to child abuse, aggravated child abuse, or neglect of a child.
- Section 827.04, F.S., relating to contributing to the delinquency or dependency of a child.
- Former s. 827.05, F.S., relating to negligent treatment of children.
- Section 827.071, F.S., relating to sexual performance by a child.
- Section 843.01, F.S., relating to resisting arrest with violence.
- Section 843.025, F.S., relating to depriving a law enforcement, correctional, or correctional probation officer of means of protection or communication.
- Section 843.12, F.S., relating to aiding in an escape.
- Section 843.13, F.S., relating to aiding in the escape of juvenile inmates in correctional institutions.
- Chapter 847, F.S., relating to obscene literature.
- Section 874.05, F.S., relating to encouraging or recruiting another to join a criminal gang.
- Chapter 893, F.S., relating to drug abuse prevention and control, only if the offense was a felony or if any other person involved in the offense was a minor.
- Section 916.1075, F.S., relating to sexual misconduct with certain forensic clients and reporting of such sexual misconduct.
- Section 944.35(3), F.S., relating to inflicting cruel or inhuman treatment on an inmate resulting in great bodily harm.
- Section 944.40, F.S., relating to escape.
- Section 944.46, F.S., relating to harboring, concealing, or aiding an escaped prisoner.

- Section 944.47, F.S., relating to introduction of contraband into a correctional facility.
- Section 985.701, F.S., relating to sexual misconduct in juvenile justice programs.
- Section 985.711, F.S., relating to contraband introduced into detention facilities.<sup>48</sup>

### ***Exemption from Disqualification***

If an individual is disqualified due to a pending arrest, conviction, plea of nolo contendere, or adjudication of delinquency to one or more of the disqualifying offenses, s. 435.07, F.S., allows the Secretary of the appropriate agency (in the case of substance abuse treatment, the DCF) to exempt applicants from disqualification under certain circumstances.<sup>49</sup>

Receiving an exemption allows that individual to work despite the disqualifying crime in that person's past. However, an individual who is considered a sexual predator,<sup>50</sup> career offender,<sup>51</sup> or sexual offender (unless not required to register)<sup>52</sup> cannot ever be exempted from disqualification.<sup>53</sup>

Additionally, individuals (including peer specialists) employed, or applicants for employment, by treatment providers who treat adolescents 13 years of age and older who are disqualified from employment solely because of certain crimes may be exempted from disqualification from employment, without applying the 3-year waiting period.<sup>54</sup> These crimes include certain offenses related to:

- Prostitution;
- Unarmed burglary of a structure;
- Third degree felony grand theft;
- Sale of imitation controlled substance;
- Forgery;
- Uttering or publishing a forged instrument;
- Sale, manufacture, delivery, or possession with intent to sell, manufacture, or deliver controlled substances (excluding drug trafficking);
- Use, possession, manufacture, delivery, transportation, advertisement, or sale of drug paraphernalia; and
- Any related criminal attempt, solicitation, or conspiracy.<sup>55</sup>

To seek exemption from disqualification, an employee must submit a request for an exemption from disqualification within 30 days after being notified of a pending disqualification, and the DCF must grant or deny the application within 60 days of the receipt of a completed application.<sup>56</sup>

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<sup>48</sup> Section 435.04(2), F.S.

<sup>49</sup> See Section 435.07(1), F.S.

<sup>50</sup> Section 775.261, F.S.

<sup>51</sup> Section 775.261, F.S.

<sup>52</sup> Section 943.0435, F.S.

<sup>53</sup> Section 435.07(4)(b), F.S.

<sup>54</sup> Section 435.07(2), F.S.

<sup>55</sup> *Id.*

<sup>56</sup> Section 397.4073(1)(f), F.S.

To be exempted from disqualification and thus be able to work, the applicant must demonstrate by clear and convincing evidence that he or she should not be disqualified from employment.<sup>57</sup> Clear and convincing evidence is a heavier burden than the preponderance of the evidence standard but less than beyond a reasonable doubt.<sup>58</sup> This means that the evidence presented is credible and verifiable, and that the memories of witnesses are clear and without confusion.<sup>59</sup> This evidence must create a firm belief and conviction of the truth of the facts presented and, considered as a whole, must convince DCF representatives without hesitancy that the requester will not pose a threat if allowed to hold a position of special trust relative to children, vulnerable adults, or to developmentally disabled individuals.<sup>60</sup> Evidence that may support an exemption includes, but is not limited to:

- Personal references.
- Letters from employers or other professionals.
- Evidence of rehabilitation, including documentation of successful participation in a rehabilitation program.
- Evidence of further education or training.
- Evidence of community involvement.
- Evidence of special awards or recognition.
- Evidence of military service.
- Parenting or other caregiver experiences.<sup>61</sup>

After the DCF receives a complete exemption request package from the applicant, the background screening coordinator searches available data, including, but not limited to, a review of records and pertinent court documents including case disposition and the applicant's plea in order to determine the appropriateness of granting the applicant an exemption.<sup>62</sup> These materials, in addition to the information provided by the applicant, form the basis for a recommendation as to whether the exemption should be granted.<sup>63</sup>

After all reasonable evidence is gathered, the background screening coordinator consults with his or her supervisor, and after consultation with the supervisor, the coordinator and the supervisor will recommend whether the exemption should be granted.<sup>64</sup> The regional legal counsel's office reviews the recommendation to grant or deny an exemption to determine legal sufficiency; the criminal justice coordinator in the region in which the background screening coordinator is located also reviews the exemption request file and recommendation and makes an initial determination whether to grant or deny the exemption.<sup>65</sup>

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<sup>57</sup> Section 435.07(3)(a), F.S.

<sup>58</sup> The DCF, *CF Operating Procedure 60-18, Personnel: Exemption from Disqualification*, at p. 1, (Aug. 1, 2010), available at <https://www.myflfamilies.com/admin/publications/cfops/CFOP%20060-xx%20Human%20Resources/CFOP%2060-18,%20Exemption%20from%20Disqualification.pdf> (last visited February 23, 2021) (hereinafter, "The DCF Operating Procedure").

<sup>59</sup> *Id.*

<sup>60</sup> *Id.*

<sup>61</sup> *Id.* at 3-4.

<sup>62</sup> *Id.* at 5.

<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

<sup>65</sup> *Id.*

If the regional criminal justice coordinator makes an initial determination that the exemption should be granted, the exemption request file and recommendations are forwarded to the regional director, who has delegated authority from the DCF Secretary to grant or deny the exemption.<sup>66</sup> After an exemption request decision is final, the background screener provides a written response to the applicant as to whether the request is granted or denied.<sup>67</sup>

If the DCF grants the exemption, the applicant and the facility or employer are notified of the decision by regular mail.<sup>68</sup> However, if the request is denied, notification of the decision is sent by certified mail, return receipt requested, to the applicant, addressed to the last known address and a separate letter of denial is sent by regular mail to the facility or employer.<sup>69</sup> If the application is denied, the denial letter must set forth pertinent facts that the background screening coordinator, the background screening coordinator's supervisor, the criminal justice coordinator, and regional director, where appropriate, used in deciding to deny the exemption request.<sup>70</sup> It must also inform the denied applicant of the availability of an administrative review<sup>71</sup> pursuant to ch. 120, F.S.<sup>72</sup>

### ***Individuals Requiring Background Screening Under Ch. 397, F.S.***

Only certain individuals affiliated with substance abuse treatment providers require background screening. Section 397.4073, F.S., requires peer specialists who have direct contact<sup>73</sup> with individuals receiving services must undergo a level 2 background screening as provided under s. 408.809 and ch. 435.<sup>74</sup> Applicant peer specialists are required to pay the costs associated with such screenings.<sup>75</sup> Similarly, all owners, directors, chief financial officers, and clinical supervisors of service providers, as well as all service provider personnel who have direct contact with children receiving services or with adults who are developmentally disabled receiving services must also undergo level 2 background screening.

Other statutory provisions are tailored to facilitate individuals in recovery who have disqualifying offenses being able to work in substance abuse treatment. The DCF may grant exemptions from disqualification for an individual seeking certification as a peer specialist if at least three years have passed since the individual has completed, or been lawfully released from, any confinement, supervision, or nonmonetary condition imposed by a court for the individual's most recent disqualifying offense.<sup>76</sup> Similar to the conditional employment granted to other select applicants in s. 397.4073, certified peer specialists may work with adults with SUD for up to 90 days after being notified of his or her disqualification or until the DCF makes a final

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<sup>66</sup> *Id.*

<sup>67</sup> *Id.* at 5.

<sup>68</sup> *Id.* at 6.

<sup>69</sup> *Id.*

<sup>70</sup> *Id.*

<sup>71</sup> All notices of denial of an exemption shall advise the applicant of the basis for the denial, that an administrative hearing pursuant to s. 120.57, F.S., may be requested, and that the request must be made within 21 days of receipt of the denial letter or the applicant's right to an appeal will be waived.

<sup>72</sup> The DCF Operating Procedure at 6.

<sup>73</sup> Direct contact is not defined in ch. 397, F.S.

<sup>74</sup> Section 397.4073(a)3., F.S.

<sup>75</sup> Section 408.809(5), F.S.

<sup>76</sup> Section 397.4073(4)(b)1.a., F.S.

determination regarding the request for an exemption from disqualification if three years or more have elapsed since the most recent disqualifying offense, whichever is earlier.<sup>77</sup>

### **III. Effect of Proposed Changes:**

#### **Coordinated System of Care**

The bill amends s. 394.4573, F.S., relating to coordinated systems of care, to add the use of peer specialists to assist in an individual's recovery from a substance use disorder or mental illness to the list of essential elements of a coordinated system of behavioral health care.

#### **Legislative Findings and Intent**

The bill provides legislative findings and intent, as follows:

- The Legislature finds that the ability to provide adequate behavioral health services is limited by a shortage of professionals and paraprofessionals.
- The Legislature finds that the state is experiencing an increase in opioid addictions, many of which prove fatal.
- The Legislature finds that peer specialists provide effective support services because they share common life experiences with the persons they assist.
- The Legislature finds that peer specialists promote a sense of community among those in recovery.
- The Legislature finds that research has shown that peer support facilitates recovery and reduces health care costs.
- The Legislature finds that persons who are otherwise qualified to serve as peer specialists may have a criminal history that prevents them from meeting background screening requirements.
- It is the intent of the Legislature that the use of peer specialists be expanded as a cost-effective means of providing services.
- It is the intent of the Legislature to ensure that peer specialists meet specified qualifications and modified background screening requirements and are adequately reimbursed for their services.

#### **Criteria for Becoming a Certified Peer Specialist**

The bill codifies a number of criteria currently used by the FCB in the process of certifying peer specialists. Specifically, the bill requires that persons seeking certification as peer specialists:

- Be in recovery from a SUD or mental illness for the past two years, or be a family member or caregiver of an individual with a history of SUD or mental illness;
- Pass a competency exam developed under the bill by the DCF; and
- Undergo background screening as provided under the bill.

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<sup>77</sup> Section 397.4073(1)(g), F.S.

### **Duties of the DCF**

Currently, the FCB provides training and administers a competency exam for peer specialists seeking certification. Under the bill, the DCF is made statutorily responsible for:

- Creating a training program for peer specialists, giving preference to trainers who are certified peer specialists. The training program must coincide with a competency exam and be based on current practice standards; and
- Mandating that all individuals providing recovery support services become certified.
  - Individuals may practice as a peer specialist prior to becoming certified for up to one year if the individual is actively working toward certification and is supervised by a qualified professional<sup>78</sup> or a certified peer specialist with at least two years of full-time experience as a peer specialist at a licensed behavioral health organization.

### **Background Screening**

The bill specifies revised background screening requirements, requiring applicants to submit a full set of fingerprints to the DCF, or to a vendor, entity, or agency<sup>79</sup> that has entered into an agreement with the FDLE. Fingerprints must then be forwarded to the FDLE for state processing and retention, and to the FBI for national processing and retention. This will enable the FDLE to conduct ongoing, fingerprint-based, state and national background checks on certified peer specialists. The bill mandates any arrest record discovered be reported to the DCF. The bill requires the DCF to screen results in order to ensure an applicant meets the requirements of certification, and it provides that the applicant peer specialist is to pay all fees charged in connection with state and federal fingerprint processing and retention.<sup>80</sup>

The bill authorizes the DCF or the Agency for Health Care Administration (the AHCA) to contract with vendors for electronic fingerprinting, provided that such contracts ensure the integrity and security of all personal identifying information obtained. Vendors who submit fingerprints on behalf of employees must:

- Meet the requirements of s. 943.053, F.S.;<sup>81</sup>
- Be capable of communicating electronically with the state agency accepting screening results from the FDLE; and
- Be capable of providing the applicant's:

<sup>78</sup> Section 397.311(35) defines "qualified professional" to mean "a physician or a physician assistant licensed under chapter 458 or chapter 459; a professional licensed under chapter 490 or chapter 491; an advanced practice registered nurse licensed under part I of chapter 464; or a person who is certified through a department-recognized certification process for substance abuse treatment services and who holds, at a minimum, a bachelor's degree." A person who is certified in substance abuse treatment services by a state-recognized certification process in another state at the time of employment with a licensed substance abuse provider in this state may perform the functions of a qualified professional as defined in this chapter but must meet certification requirements contained in this subsection no later than 1 year after his or her date of employment.

<sup>79</sup> Section 943.053(13), F.S., provides criteria which must be followed in order for the FDLE to accept fingerprint submissions from private vendors, entities, or agencies.

<sup>80</sup> This cost is already borne by the applicant under current law requiring level 2 background screening for certified peer specialists. See ss. 397.4073(1)(a)3. and 408.809(5), F.S.

<sup>81</sup> Section 943.053, F.S., provides, among other things, standards for vendors meant to ensure that all persons having direct or indirect responsibility for verifying identification, taking fingerprints, and electronically submitting fingerprints are qualified to do so and will ensure the integrity and security of all personal information gathered from the persons whose fingerprints are submitted.

- Full first name, middle initial, and last name;
- Social security number or individual taxpayer identification number;
- Date of birth;
- Mailing address;
- Sex; and
- Race.

The bill provides that a background screening of a peer specialist must ensure that a prospective peer specialist has not been arrested for and awaiting final disposition of, found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or been adjudicated delinquent and the record has not been sealed or expunged for, any felony within the past three years. The bill also requires that background screening ensure the applicant has not, at any time, been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or been adjudicated delinquent and the record has not been sealed or expunged for, the following laws or similar laws of other jurisdictions:

- Section 393.135, relating to sexual misconduct with certain developmentally disabled clients and reporting of such sexual misconduct.
- Section 394.4593, relating to sexual misconduct with certain mental health patients and reporting of such sexual misconduct.
- Section 409.920, relating to Medicaid provider fraud, if the offense was a felony of the first or second degree.
- Section 415.111, relating to abuse, neglect, or exploitation of vulnerable adults.
- Any offense that constitutes domestic violence as defined in s. 741.28, F.S.
- Section 777.04, relating to attempts, solicitation, and conspiracy to commit an offense listed in this paragraph.
- Section 782.04, relating to murder.
- Section 782.07, relating to manslaughter, aggravated manslaughter of an elderly person or a disabled adult, aggravated manslaughter of a child, or aggravated manslaughter of an officer, a firefighter, an emergency medical technician, or a paramedic.
- Section 782.071, relating to vehicular homicide.
- Section 782.09, relating to killing an unborn child by injury to the mother.
- Chapter 784, relating to assault, battery, and culpable negligence, if the offense was a felony.
- Section 787.01, relating to kidnapping.
- Section 787.02, relating to false imprisonment.
- Section 787.025, relating to luring or enticing a child.
- Section 787.04(2), relating to leading, taking, enticing, or removing a minor beyond state limits, or concealing the location of a minor, with criminal intent pending custody proceedings.
- Section 787.04(3), relating to leading, taking, enticing, or removing a minor beyond state limits, or concealing the location of a minor, with criminal intent pending dependency proceedings or proceedings concerning alleged abuse or neglect of a minor.
- Section 790.115(1), relating to exhibiting firearms or weapons within 1,000 feet of a school.
- Section 790.115(2)(b), relating to possessing an electric weapon or device, a destructive device, or any other weapon on school property.
- Section 794.011, relating to sexual battery.
- Former s. 794.041, relating to prohibited acts of persons in familial or custodial authority.

- Section 794.05, relating to unlawful sexual activity with certain minors.
- Section 794.08, relating to female genital mutilation.
- Section 796.07, relating to procuring another to commit prostitution, except for those offenses expunged pursuant to s. 943.0583.
- Section 798.02, relating to lewd and lascivious behavior.
- Chapter 800, relating to lewdness and indecent exposure.
- Section 806.01, relating to arson.
- Section 810.02, relating to burglary, if the offense was a felony of the first degree.
- Section 810.14, relating to voyeurism, if the offense was a felony.
- Section 810.145, relating to video voyeurism, if the offense was a felony.
- Section 812.13, relating to robbery.
- Section 812.131, relating to robbery by sudden snatching.
- Section 812.133, relating to carjacking.
- Section 812.135, relating to home-invasion robbery.
- Section 817.034, relating to communications fraud, if the offense was a felony of the first degree.
- Section 817.234, relating to false and fraudulent insurance claims, if the offense was a felony of the first or second degree.
- Section 817.50, relating to fraudulently obtaining goods or services from a health care provider and false reports of a communicable disease.
- Section 817.505, relating to patient brokering.
- Section 817.568, relating to fraudulent use of personal identification, if the offense was a felony of the first or second degree.
- Section 825.102, relating to abuse, aggravated abuse, or neglect of an elderly person or a disabled adult.
- Section 825.1025, relating to lewd or lascivious offenses committed upon or in the presence of an elderly person or a disabled person.
- Section 825.103, relating to exploitation of an elderly person or a disabled adult, if the offense was a felony.
- Section 826.04, relating to incest.
- Section 827.03, relating to child abuse, aggravated child abuse, or neglect of a child.
- Section 827.04, relating to contributing to the delinquency or dependency of a child.
- Former s. 827.05, relating to negligent treatment of children.
- Section 827.071, relating to sexual performance by a child.
- Section 831.30, relating to fraud in obtaining medicinal drugs.
- Section 831.31, relating to sale, manufacture, delivery, possession with intent to sell, manufacture, or deliver of any counterfeit controlled substance, if the offense was a felony.
- Section 843.01, relating to resisting arrest with violence.
- Section 843.025, relating to depriving a law enforcement, correctional, or correctional probation officer of the means of protection or communication.
- Section 843.12, relating to aiding in an escape.
- Section 843.13, relating to aiding in the escape of juvenile inmates of correctional institutions.
- Chapter 847, relating to obscenity.
- Section 874.05, relating to encouraging or recruiting another to join a criminal gang.

- Chapter 893, relating to drug abuse prevention and control, if the offense was a felony of the second degree or greater severity.
- Section 895.03, relating to racketeering and collection of unlawful debts.
- Section 896.101, relating to the Florida Money Laundering Act.
- Section 916.1075, relating to sexual misconduct with certain forensic clients and reporting of such sexual misconduct.
- Section 944.35(3), relating to inflicting cruel or inhuman treatment on an inmate resulting in great bodily harm.
- Section 944.40, relating to escape.
- Section 944.46, relating to harboring, concealing, or aiding an escaped prisoner.
- Section 944.47, relating to introduction of contraband into a correctional institution.
- Section 985.701, relating to sexual misconduct in juvenile justice programs.
- Section 985.711, relating to introduction of contraband into a detention facility.

The new screening requirements of the bill eliminate the following disqualifying offenses from current law for peer specialists:

- Misdemeanor assault, or battery (Ch. 784, F.S.),
- Prostitution (Ch. 796, F.S.), with the exception of those offenses listed in s. 796.07, F.S., which have not been expunged.
- Lower level burglary offenses (s. 810.02, F.S.),
- Lower level theft and robbery offenses (Ch. 812, F.S.),
- Lower level drug abuse offenses (s. 817.563 and Ch. 893, F.S.),
- Credit card fraud (ss. 817.481, 817.60, and 817.61, F.S.), and
- Forgery (ss. 831.01, 831.02, 831.07 and 831.09, F.S.).

The bill allows individuals who wish to become peer specialists but have a disqualifying offense in their background to request an exemption from disqualification pursuant to s. 435.07, F.S., from the DCF or the AHCA, as applicable.

The bill also allows service provider personnel, including peer specialists, to work with adults with mental health disorders (in addition to the current allowance to work with adults suffering from SUDs or co-occurring disorders) while an exemption request is pending, and extends the time limit for such work from 90 days to 180 days.

The bill offers a grandfather clause to allow all peer specialists certified as of July 1, 2021 to be recognized as having met the requirements of the bill.

#### **Deleted Provisions of s. 397.417, F.S.**

The bill eliminates and replaces all of the current provisions of s. 397.417, F.S. Specifically, the bill:

- Eliminates the requirement that a family member or caregiver of an individual with a SUD or mental illness have at least two years of experience in order to attain certification as a peer specialist;
- Requires the DCF to develop a peer specialist training program rather than a third-party credentialing entity;

- Allows the DCF the option of certifying peer specialists directly or approving third party credentialing entities to do so;
- Permits an individual with two years of full-time experience as a peer specialist to supervise an individual providing recovery support services and working toward certification (supervisory certified peer specialists currently must have at least three years of experience).

**Effective Date**

The bill is effective July 1, 2021.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None identified.

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

None.

**B. Private Sector Impact:**

The bill eliminates several disqualifying criminal offenses which often result in disqualification from certification eligibility, and as a result the DCF predicts that there may be additional revenues generated for certification providers from fees paid by a greater number of individuals seeking certification.<sup>82</sup>

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<sup>82</sup> The DCF Analysis at p. 6.

**C. Government Sector Impact:**

The DCF estimates there may be a negative impact to state government due to a potential increase in background screenings being conducted, and a possible increase in the number of exemptions from disqualification requested, leading to a heavier workload for the Background Screening Office.<sup>83</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 394.4573, 397.4073, and 397.417.

**IX. 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 2, 2021:**

The Committee Substitute:

- Amends s. 397.4073, F.S., to allow peer specialists to work with adults with mental health disorders while a request for an exemption from a background check disqualification is pending.
- Expands the statutory limit for the number of days during which a peer specialist can work while a request for an exemption from a background check disqualification is pending to 180 days from the current 90 days.
- Requires the DCF to screen results of applicant peer specialist background checks in order to ensure each applicant meets the requirements of certification.
- Requires state agencies, rather than vendors under contract with the DCF or the AHCA, to accept screening results from the FDLE.
- Provides that vendors under contract with the DCF or the AHCA must be capable of communicating electronically with state agencies that receive screening results.
- Clarifies that offenses related to domestic violence, as defined in s. 741.28, F.S., are added to the list of disqualifying offenses for applicant peer specialists, rather than offenses delineated in s. 741.28, F.S.

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<sup>83</sup> *Id* at p. 5.

B. Amendments:

None.

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

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By Senator Harrell

25-00487-21

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A bill to be entitled  
An act relating to services for veterans and their families; creating s. 394.9087, F.S.; requiring the Department of Veterans' Affairs to establish the Florida Veterans' Care Coordination Program to provide behavioral health care referral and care coordination services for veterans and their families; requiring the department to contract with a certain nonprofit entity to enter into agreements with Florida 211 Network participants to provide such services; providing program goals; providing for the statewide delivery of specified services by program teams; requiring Florida 211 Network participants to collect program implementation data and to submit such data to the department; requiring the department to submit a report to the Governor and the Legislature by a specified date; providing requirements for the report; providing an effective date.

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

Section 1. Section 394.9087, Florida Statutes, is created to read:

394.9087 Florida Veterans' Care Coordination Program.—

(1) The Department of Veterans' Affairs shall establish the Florida Veterans' Care Coordination Program. The Department of Veterans' Affairs shall contract with a nonprofit entity that is accredited by the Council on Accreditation, is fully accredited by the National Alliance of Information and Referral Services,

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and has statewide phone capacity to serve veterans to enter into  
agreements with Florida 211 Network participants to provide  
veterans and their families in this state with dedicated  
behavioral health care referral services, especially mental  
health and substance abuse services. The Department of Veterans'  
Affairs shall model the program after the proof-of-concept pilot  
program established in 2014 by the Crisis Center of Tampa Bay  
and the Department of Veterans' Affairs in Hillsborough, Pasco,  
Pinellas, Polk, and Manatee Counties.

(2) The goals of the program are to:

(a) Prevent suicides by veterans.

(b) Increase veterans' use of programs and services  
provided by the United States Department of Veterans Affairs.

(c) Increase the number of veterans who use other available  
community-based programs and services.

(3) The program must be available statewide. Program  
services must be provided by program teams operated by Florida  
211 Network participants as authorized by s. 408.918. A Florida  
211 Network participant may provide services in more than one  
geographic area under a single contract.

(4) The program teams shall provide referral and care  
coordination services to veterans and their families and expand  
the existing Florida 211 Network to include the optimal range of  
veterans' service organizations and programs. Florida 211  
Network participants in the Florida Veterans' Care Coordination  
Program must include all of the following:

(a) Telephonic peer support, crisis intervention, and the  
communication of information on referral resources.

(b) Treatment coordination, including coordination of

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59 followup care.

60 (c) Suicide risk assessment.

61 (d) Promotion of the safety and wellness of veterans and  
62 their families, including continuous safety planning and  
63 support.

64 (e) Resource coordination, including data analysis, to  
65 facilitate acceptance, enrollment, and attendance of veterans  
66 and their families in programs and services provided by the  
67 United States Department of Veterans Affairs and other available  
68 community-based programs and services.

69 (f) Immediate needs assessments, including safety planning  
70 and support.

71 (5) To enhance program services, program teams shall:

72 (a) Track the number of requests from callers who are  
73 veterans or members of a veteran's family.

74 (b) Follow up with callers who are veterans or members of a  
75 veteran's family to determine whether they have acted on the  
76 referrals or received the assistance needed and whether  
77 additional referral or advocacy is needed.

78 (c) Develop and implement communication strategies, such as  
79 media promotions, public service announcements, print and  
80 Internet articles, and community presentations, to inform  
81 veterans and their families about available programs and  
82 services provided by the United States Department of Veterans  
83 Affairs and other available community-based programs and  
84 services.

85 (d) Document all calls and capture all necessary data to  
86 improve outreach to veterans and their families and report such  
87 data to the contracted entity.

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88       (6) Florida 211 Network participants in the Florida  
89 Veterans' Care Coordination Program shall maintain a database of  
90 veteran-specific services available in the communities served by  
91 the program. The Department of Veterans' Affairs and its  
92 selected contractor shall work with managing entities as defined  
93 in s. 394.9082(2)(e) to educate service providers about the  
94 Florida Veterans Support Line and the Florida Veterans' Care  
95 Coordination Program.

96       (7) Florida 211 Network participants shall collect data on  
97 the program and submit such data to the Department of Veterans'  
98 Affairs in the format prescribed by the Department of Veterans'  
99 Affairs. The Department of Veterans' Affairs shall use such data  
100 to prepare a report for submittal to the Governor, the President  
101 of the Senate, and the Speaker of the House of Representatives  
102 by December 15, 2022. The report must include all of the  
103 following:

104       (a) The number of calls received.

105       (b) Demographic information for each caller, including, but  
106 not limited to, the caller's military affiliation, the caller's  
107 veteran status, and whether the caller is receiving services  
108 provided by the United States Department of Veterans Affairs or  
109 other available community-based programs and services.

110       (c) The nature of each call, including, but not limited to,  
111 the concerns prompting the call and the services requested.

112       (d) The outcome of each call, including, but not limited  
113 to, the services for which referrals were made and the  
114 organizations to which the caller was referred.

115       (e) Services received as a result of each call.

116       (f) Information regarding followup by the program team,

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117 including, but not limited to, the percentage of calls receiving  
118 followup and the outcome of such followup.

119 (g) Information regarding the program's impact on each  
120 caller's quality of life and on the avoidance of negative  
121 outcomes, including arrest and suicide.

122 (h) Each caller's level of satisfaction with program  
123 services.

124 Section 2. This act shall take effect July 1, 2021.

**COMMITTEE:** Children, Families, and Elder Affairs  
**ITEM:** SB 260  
**FINAL ACTION:** Favorable  
**MEETING DATE:** Tuesday, March 2, 2021  
**TIME:** 4:00—6:00 p.m.  
**PLACE:** 37 Senate Building

[illegible]

CODES: FAV=Favorable  
UNF=Unfavorable  
-R=Reconsidered

RCS=Replaced by Committee Substitute  
RE=Replaced by Engrossed Amendment  
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed  
VA=Vote After Roll Call  
VC=Vote Change After Roll Call

WD=Withdrawn  
OO=Out of Order  
AV=Abstain from Voting

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Duplicate

3/1/2021

Meeting Date

THE FLORIDA SENATE

## APPEARANCE RECORD

260

Bill Number (if applicable)

Topic Services for Veterans & Their Families

Name Pamela Burch Fort

Amendment Barcode (if applicable)

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

Address 104 South Monroe Street

Street

Tallahassee

FL

32301

City

State

Zip

Phone 850-425-1344

Email TcgLobby@aol.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing \_\_\_\_\_

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

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**THE FLORIDA SENATE**

**APPEARANCE RECORD**

March 2, 2021

*Meeting Date*

260

*Bill Number (if applicable)*

Topic Services for Veterans and their Families

*Amendment Barcode (if applicable)*

Name Barney Bishop III

Job Title Chief Executive Officer

Address 2215 Thomasville Road

*Street*

Phone 850.510.9922

Tallahassee

FL

32308

*City*

*State*

*Zip*

Email barney@barneybishop.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Smart Justice 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.*

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S-001 (10/14/14)

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March 2, 2021

*Meeting Date*

**THE FLORIDA SENATE**

**APPEARANCE RECORD**

260

*Bill Number (if applicable)*

Topic Services for Veterans and their Families

Name Barney Bishop III

*Amendment Barcode (if applicable)*

Job Title Chief Executive Officer

Address 2215 Thomasville Road

*Street*

Tallahassee

*City*

FL

*State*

32308

*Zip*

Phone 850.510.9922

Email barney@barneybishop.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Smart Justice Alliance

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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Duplicate

**THE FLORIDA SENATE**

**APPEARANCE RECORD**

3-2-2021

Meeting Date

260

Bill Number (if applicable)

Topic Services for Veterans

Name Natalie King

Job Title Vice President

Address 113 E College Ave

Street

Tallahassee

City

Florida

State

Zip

Phone 8505850523

Email natalie@rsaconsultingllc.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing United Way Suncoast

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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THE FLORIDA SENATE

Duplicate

# APPEARANCE RECORD

2 March 2021

Meeting Date

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

SB 0260

Bill Number (if applicable)

Topic Services for Veterans and Their Families

Name James "Hammer" Hartsell, Major General, USMC (Ret),

Job Title Deputy Executive Director

Address 400 S. Monroe Street Ste 2105

Street

Tallahassee

City

FL

State

32399

Zip

Phone 850-487-1533

Email HartsellJ@FDVA.State.FL.US

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Department of Veterans' Affairs

Appearing at request of Chair: ☒ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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3/2/2021

*Meeting Date*

**THE FLORIDA SENATE**

**APPEARANCE RECORD**

SB 260

*Bill Number (if applicable)*

Topic Services for Veterans and Their Families

*Amendment Barcode (if applicable)*

Name Elizabeth Berglin, United Way of Miami-Dade

Job Title Director, Public Policy

Address 3250 Southwest Third Avenue

Phone 305-646-7093

*Street*

Miami

Florida

33129

*City*

*State*

*Zip*

Email bergline@unitedwaymiami.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing United Way of Miami-Dade

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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Duplicate

3/3/21

Meeting Date

THE FLORIDA SENATE  
**APPEARANCE RECORD**

SB 260

Bill Number (if applicable)

Topic Services for Veterans and their Families

Name Alejandro D. González

Amendment Barcode (if applicable)

Job Title Director of Public Policy

Address 1300 S. Andrews Avenue

Street

Ft. Lauderdale

FL

33316

City

State

Zip

Phone 954.308.9277

Email agonzalez@unitedwaybroward.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing United Way of Broward County

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 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/2/21  
Meeting Date

SB 260  
Bill Number (if applicable)

Topic SERVICES FOR VETERANS AND THEIR FAMILIES

Name NATALIE KELLY

Amendment Barcode (if applicable)

Job Title CEO

Address 122 SOUTH CALHOUN STREET  
Street  
TALLAHASSEE, FL  
City State Zip  
32301

Phone (850) 895-1313  
Email NATALIE@FLMANAGING ENTITIES.COM

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing FLORIDA ASSOCIATION OF MANAGING ENTITIES

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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Reset Form

THE FLORIDA SENATE  
**APPEARANCE RECORD**

3-2-2021

Meeting Date

260

Bill Number (if applicable)

Topic Services for Veterans

Amendment Barcode (if applicable)

Name Rick Owen

Job Title President & CEO

Address 307 E. 7th Ave

Street

Phone 850-488-8276

Tallahassee

FL

32303

City

State

Zip

Email rick@uwof.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing United Way of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

This form is part of the Florida Senate's public testimony process.

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

2 March 2021

*Meeting Date*

SB 0260

*Bill Number (if applicable)*

Topic Services for Veterans and Their Families

*Amendment Barcode (if applicable)*

Name James "Hammer" Hartsell, Major General, USMC (Ret),

Job Title Deputy Executive Director

Address 400 S. Monroe Street Ste 2105

Phone 850-487-1533

*Street*

Tallahassee

FL

32399

*City*

*State*

*Zip*

Email HartsellJ@FDVA.State.FL.US

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Department of Veterans' Affairs

Appearing at request of Chair: ☒ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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

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BILL: SB 260

INTRODUCER: Senator Harrell and others

SUBJECT: Services for Veterans and Their Families

DATE: March 1, 2021

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

|    | ANALYST      | STAFF DIRECTOR  | REFERENCE | ACTION           |
|----|--------------|-----------------|-----------|------------------|
| 1. | <u>Brown</u> | <u>Caldwell</u> | <u>MS</u> | <b>Favorable</b> |
| 2. | <u>Delia</u> | <u>Cox</u>      | <u>CF</u> | <b>Favorable</b> |
| 3. | _____        | _____           | <u>AP</u> | _____            |

**I. Summary:**

SB 260 creates the Florida Veterans' Care Coordination Program (Program), to provide veterans and their families dedicated behavioral health care referral services, primarily for mental health and substance abuse. Through the Program, a veteran may call a separate veteran-dedicated support line to receive assistance and support from a fellow veteran who is trained to respond to the calls for assistance.

The bill requires the Florida Department of Veterans' Affairs (FDVA) to establish the Program. To provide services, the FDVA must contract with a nonprofit entity that has statewide phone capacity to serve veterans and is accredited by the Council on Accreditation and fully accredited by the Alliance of Information and Referral Services. The contracting entity must enter into agreements with Florida 211 Network participants to provide services to veterans.

The bill models the Program after the pilot program established in 2014 by the Crisis Center of Tampa Bay and the Florida Department of Veterans' Affairs (FDVA) in Hillsborough, Pasco, Pinellas, Polk, and Manatee Counties.

The bill specifies goals, services, and follow-up requirements.

The FDVA must compile data collected by the Florida 211 Network into a report for the Governor, President of the Senate, and Speaker of the House of Representatives by December 15, 2022.

The FDVA provides that the bill may have a fiscal impact on state government. Current funding for the program is set to expire September 30, 2021. Should the funding not be extended, annual recurring costs to operate the statewide program have been estimated in previous years at \$2 million from General Revenue. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2021.

## II. Present Situation:

### Veterans and Mental Health and/or Substance Abuse

More than 1.5 million veterans currently live in Florida, making the state's veteran population the third largest nationally.<sup>1</sup> Veterans face unique challenges, and some struggle with mental health and substance abuse.

Post-traumatic Stress Disorder (PTSD) is a psychiatric disorder that can occur in people who have experienced or witnessed a traumatic event, including war or combat.<sup>2</sup>

The National Center for PTSD, U.S. Department of Veterans Affairs (VA), lists the percentage of veterans with PTSD by service era:

- Between 11 and 20 percent of veterans who served in Operations Iraqi Freedom and Enduring Freedom have PTSD in a given year.
- About 12 percent of veterans who served in the Gulf War have PTSD in a given year.
- About 15 percent of veterans of the Vietnam War were diagnosed with PTSD at the time of the most recent study in the late 1980's. However, it is estimated that about 30 percent of veterans of the Vietnam War have had PTSD in their lifetimes.<sup>3</sup>

A strong association exists between PTSD and substance use disorders (SUD) amongst veterans. Statistics show:

- More than two in 10 veterans with PTSD also have SUD;
- Almost one in three veterans seeking treatment for SUD also have PTSD;
- About one in 10 veterans returning from the wars in Iraq and Afghanistan seen at the VA have problems with alcohol or other drugs.<sup>4</sup>

Suicide rates for veterans continue to be a cause of national concern:

- More than 6,000 veterans committed suicide each year from 2008 to 2016.
- In 2016, the suicide rate was 1.5 times greater for veterans than for non-veteran adults, after adjusting for age and gender.<sup>5</sup>

From 2005 to 2016, the increase in suicide rate among veterans in Veterans Hospital Administration (VHA) care was lower than among veterans not in VHA care.<sup>6</sup>

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<sup>1</sup> Florida Department of Veterans' Affairs, *Our Veterans*, available at <http://floridavets.org/our-veterans/> (last visited February 25, 2021).

<sup>2</sup> American Psychiatric Association, *What is Posttraumatic Stress Disorder?*, available at <https://www.psychiatry.org/patients-families/ptsd/what-is-ptsd> (last visited February 25, 2021).

<sup>3</sup> National Center for PTSD, U.S. Dep't of Veterans Affairs, *How Common is PTSD in Veterans?*, available at [https://www.ptsd.va.gov/understand/common/common\\_veterans.asp](https://www.ptsd.va.gov/understand/common/common_veterans.asp) (last visited February 25, 2021).

<sup>4</sup> National Center for PTSD, U.S. Dep't of Veterans Affairs, *PTSD and Substance Abuse in Veterans*, available at [https://www.ptsd.va.gov/understand/related/substance\\_abuse\\_vet.asp](https://www.ptsd.va.gov/understand/related/substance_abuse_vet.asp) (last visited February 25, 2021).

<sup>5</sup> Office of Mental Health and Suicide Prevention, U.S. Dep't of Veterans Affairs, *VA National Suicide Data Report 2005-2016*, pg. 3, available at [https://www.mentalhealth.va.gov/docs/data-sheets/OMHSP\\_National\\_Suicide\\_Data\\_Report\\_2005-2016\\_508.pdf](https://www.mentalhealth.va.gov/docs/data-sheets/OMHSP_National_Suicide_Data_Report_2005-2016_508.pdf) (last visited February 25, 2021).

<sup>6</sup> *Id.*

## **Florida Alliance of Information and Referral Services (FLAIRS)**

Each year, 16 million people in the United States call 2-1-1 for help with basic needs like food and shelter, and emergency needs, such as mental health, addiction, and suicide intervention.<sup>7</sup> The Florida Alliance of Information and Referral Services (FLAIRS) is the 211 collaborative organization for the state responsible for designing, studying, and implementing the Florida 211 Network.<sup>8</sup> The mission of the FLAIRS is to strengthen the health and human service information and referral provider network in the state through advocacy, coordination, and education.<sup>9</sup>

The Florida 211 Network, established in s. 408.918, F.S., operates as the single point of coordination for information and referral of health and human services.<sup>10</sup> As of February 20, 2017, 22 Florida 211 Network providers operated across the state.<sup>11</sup>

To participate in the Florida 211 Network, a 211 provider must be fully accredited by the National Alliance of Information and Referral Services or have received approval to operate, pending accreditation from its affiliate, the FLAIRS.<sup>12</sup>

## **The Council on Accreditation**

The Council on Accreditation (COA) is an international accrediting entity that accredits private and public organizations and programs that provide human services.<sup>13</sup> The COA specifically accredits entities providing child welfare, behavioral health, and community-based social services.<sup>14</sup>

## **Pilot Program and Statewide Expansion**

### ***Pilot Program***

In 2014, the Crisis Center of Tampa Bay launched a pilot program through its existing 211 Network to offer a separate dedicated phone line for state veterans in need of support. The Program expanded existing 211 services, including behavioral health care service referrals, to veterans in Hillsborough, Pasco, Pinellas, Polk, and Manatee counties.<sup>15</sup>

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<sup>7</sup> See The Florida Alliance of Information and Referral Services (FLAIRS), *211 Counts.org*, available at <http://www.flairs.org/211counts/> (last visited Jan. 14, 2021). For a breakdown of needs by center on the FLAIRS website, see *What are the Most Pressing Needs for Your Community?*, available at <https://211counts.org/home/index> (last visited February 25, 2021).

<sup>8</sup> Section 408.918(3), F.S.

<sup>9</sup> The Florida Alliance of Information and Referral Services (FLAIRS), *Mission*, available at <http://www.flairs.org/mission/> (last visited February 25, 2021).

<sup>10</sup> Section 408.918(1), F.S.

<sup>11</sup> The Florida Alliance of Information and Referral Services (FLAIRS), *Florida 2-1-1 Network Map*, available at <http://www.flairs.org/wp-content/uploads/sites/13/2017/03/FL-211-providers-and-coverage-areas-022717.pdf> (last visited February 25, 2021).

<sup>12</sup> Section 408.918(2), F.S.; The full accreditation process requires a remote database review, consultation component, on-site review, and demonstration of a call handling component, as well as payment of a membership fee. <https://www.airs.org/i4a/pages/index.cfm?pageid=3286> (last visited February 25, 2021).

<sup>13</sup> Council on Accreditation, *Home*, available at <http://coanet.org/home/> (last visited February 25, 2021).

<sup>14</sup> Council on Accreditation, *Frequently Asked Questions*, available at <http://coanet.org/faq/> (last visited February 25, 2021).

<sup>15</sup> Specific Appropriation 595, ch. 2014-51, L.O.F., available at <http://laws.flrules.org/2014/51> (last visited February 25, 2021).

Under the Crisis Center's Peer-to-Peer Care Coordination model, callers to the support line talk to a fellow veteran who will provide emotional support and assistance and referral to VA and non-VA services, including for medical care, housing, counseling, legal, and employment assistance.<sup>16</sup>

### ***History of Funding for the Pilot Program***

Since the launch of the pilot program, funding has been provided as follows:

- 2014 - 2015: The 2014 Legislature provided an appropriation of \$150,000 in nonrecurring funds to the Crisis Center of Tampa Bay to create the pilot program. With the appropriation, in August 2014, the Crisis Center of Tampa Bay expanded its services to veterans and hired veterans to answer crisis calls. The Crisis Center launched the Florida Veterans Support Line in November 2014. The Department of Children and Families (DCF) has continued the annual appropriation of \$150,000 to continue the pilot program.<sup>17</sup>
- 2017 - 2018: The Legislature funded \$400,000 in nonrecurring dollars from general revenue through the FDVA for statewide expansion of the dedicated call line and a marketing campaign to inform the public about the call line. Funding was not allotted for statewide Peer-to-Peer Care Coordination.<sup>18</sup> To date, this was the last legislative appropriation provided.
- 2018 - 2019: The FDVA provided \$1 million in funding for the statewide program, including Peer-to-Peer Care Coordination. To ensure full statewide implementation, the Department of Children and Families (DCF) matched in full the FDVA's funding through a federal grant.
- 2019 - 2020: The FDVA provided \$1 million in funding, matched in full by the DCF.
- 2020 - 2021: The FDVA provided \$1 million in funding, matched in full by the DCF.<sup>19</sup>

Both of the sources of funding provided for the last three fiscal years are set to expire September 30, 2021, though may possible be extended to September 2024, pending funding allocation.<sup>20</sup>

### ***Use of the Program by Veterans***

Since the Crisis Center implemented the pilot program in 2014, veteran and veteran family participation has steadily increased.

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<sup>16</sup> Crisis Center of Tampa Bay, *Florida Veterans Support Line, What we offer*, available at <https://www.myflvet.com/about-1> (last visited February 25, 2021).

<sup>17</sup> Crisis Center of Tampa Bay, *Overview of Current Funding* (on file with the Senate Committee on Military and Veterans Affairs, Space, and Domestic Security).

<sup>18</sup> *Id.*, The nonrecurring \$400,000 is provided in Specific Appropriation 575 of ch. 2017-70, L.O.F., available at <http://laws.flrules.org/2017/70> (last visited February 25, 2021).

<sup>19</sup> Crisis Center of Tampa Bay, *supra* note 16; Department of Veterans Affairs, *2021 Agency Legislative Bill Analysis, SB 260, See p. 2.* (Jan. 25, 2021) (on file with the Senate Committee on Military and Veterans Affairs, Space, and Domestic Security) (hereinafter cited as "FDVA Analysis").

<sup>20</sup> Crisis Center of Tampa Bay, *Florida Veterans Support Line, Current Funding* (on file with the Senate Committee on Military and Veterans Affairs, Space, and Domestic Security).

| Region Served | Fiscal Year | Veterans Served | Services Referred | Suicide Concerns  | Peer-to-Peer Care Coordination - Crisis Center of Tampa Bay Only |
|---------------|-------------|-----------------|-------------------|-------------------|------------------------------------------------------------------|
| 5 Counties    | 2014-2015   | 1,135           | 925               | 179               | 626 <sup>21</sup>                                                |
| 5 Counties    | 2015-2016   | 1,315           | 1,478             | 207               | 750 <sup>22</sup>                                                |
| 5 Counties    | 2016-2017   | 3,420           | 3,641             | 538               | 768 <sup>23</sup>                                                |
| Statewide     | 2017-2018   | 28,962          | 49,932            | 396 <sup>24</sup> | 880 <sup>25</sup>                                                |
| Statewide     | 2018-2019   | 17,699          | 35,150            | 431               | 2,274 <sup>26</sup>                                              |
| Statewide     | 2019-2020   | 25,800          | 55,012            | 201               | 5,639 <sup>27</sup>                                              |
| Statewide     | 2020-2021   | 6,890           | 19,707            | 67                | 1,658 <sup>28</sup>                                              |

### III. Effect of Proposed Changes:

SB 260 creates the Florida Veterans' Care Coordination Program (Program) as a statewide program, to provide veterans and their families dedicated behavioral health care referral services, primarily for mental health and substance abuse. Through the Program, a veteran who calls a dedicated support line receives assistance and support from a trained fellow veteran.

The bill requires the Florida Department of Veterans' Affairs (FDVA) to establish the Program. To provide services, the FDVA must contract with a nonprofit entity that has statewide phone capacity to serve veterans and is accredited by the Council on Accreditation and fully accredited by the National Alliance of Information and Referral Services. The entity must enter into agreements with Florida 211 Network participants to provide services to veterans.

The bill models the Program after the pilot program established in 2014 by the Crisis Center of Tampa Bay and the FDVA in Hillsborough, Pasco, Pinellas, Polk, and Manatee Counties.

#### Program Goals and Services

Program goals are to prevent suicide by a veteran and increase veteran participation in programs and services provided by the VA and community-based programs and services.

Florida 211 Network participants in the Program must provide an array of specific services, including all of the following:

<sup>21</sup> Crisis Center of Tampa Bay, *Overview of the 1-844-MYFLVET Support Line* (on file with the Senate Committee on Military and Veterans Affairs, Space, and Domestic Security).

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> This number is reflected for the Crisis Center of Tampa Bay only.

<sup>25</sup> Crisis Center of Tampa Bay, *Overview of the 1-844-MYFLVET Support Line* (on file with the Senate Committee on Military and Veterans Affairs, Space, and Domestic Security).

<sup>26</sup> Crisis Center of Tampa Bay, *Florida Veterans Support Line, Statewide Data, Fiscal Year 2019, Fiscal Year 2020, Fiscal Year 2021 - Q1* (on file with the Senate Committee on Military and Veterans Affairs, Space, and Domestic Security).

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

<sup>28</sup> *Id.* The totals for the most recent fiscal year reflect the first quarter of the 2020-2021 fiscal year, October through December 2020.

- Telephonic peer support, crisis intervention, and information on referral resources;
- Treatment coordination, including coordination of follow-up care;
- Assessment of suicide risk
- Immediate needs assessments, including safety planning and support;
- Promotion of the safety and wellness of veterans and their families, including continuous safety planning and support; and
- Resource coordination, including data analysis, to facilitate acceptance, enrollment, and attendance of veterans and their families in programs and services provided by the VA and other available community-based programs and services.

The bill requires program teams to:

- Document all incoming calls and capture data needed to reach a greater number of veterans and their families;
- Track the number and nature of requests from veterans and family members;
- Follow up with callers to determine if they have pursued referrals and whether additional help is needed; and
- Implement communication strategies<sup>29</sup> to educate veterans and their families about programs and services provided by the VA and other community-based programs and services.

To educate others about the Program:

- Florida 211 network participants must collect data on the program and establish and maintain a database of services available locally.
- Both the FDVA and its contractor must work with managing entities to educate service providers about the Florida Veterans Support Line and the Program.

### **Data Collection and Report**

Florida 211 Network participants must provide all collected data to the FDVA, as directed by the FDVA. By December 15, 2022, the FDVA must then submit a report to the Governor, President of the Senate, and Speaker of the House of Representatives.

The report must include:

- The total number of calls received by the Program;
- Demographic information on each caller, including military affiliation, veteran status, and whether they are receiving services provided by the VA or other available community-based programs and services;
- The nature of each call, including any concerns prompting the call and any services requested by the caller;
- The outcome of each call, including referrals for services and any organizations to which the caller was referred;
- Services received as a result of each call;
- Information regarding follow-up by the Program team, including the percentage of calls receiving follow-up and the outcome of such follow-up;

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<sup>29</sup> Examples of communication strategies provided by the bill include media promotions, public service announcements, print and Internet articles, and community presentations.

- Information regarding the Program's impact on each caller's quality of life and avoidance of negative outcomes; and
- Each caller's level of satisfaction with services received.

Although the bill may have a fiscal impact on state government, the bill does not provide for funding.

The bill takes effect July 1, 2021.

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

##### **A. Municipality/County Mandates Restrictions:**

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, Section 18 of the Florida Constitution.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

##### **D. State Tax or Fee Increases:**

None.

##### **E. Other Constitutional Issues:**

None identified.

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

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

None.

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

Veterans and their families may financially benefit from having greater access to treatments and services specifically designed for veterans with mental health or substance abuse issues, including programs offered through the United States Department of Veterans Affairs and community-based services.

**C. Government Sector Impact:**

The bill requires the FDVA to provide statewide dedicated behavioral healthcare referral services, as well as mental health and substance abuse services to veterans and their families through Florida's 211 Network. According to the FDVA, funding was provided last year through the Department of Children and Families Opioid Grant that provides \$1,000,000 for two years. Additionally, the VA Sunshine Healthcare Network<sup>30</sup> matched the grant funding with \$1,000,000 for three years, with an option for another two years.<sup>31</sup> Both sources of funding are scheduled to expire September 30, 2021, unless extended.<sup>31</sup> The cost of the program is unknown but legislation<sup>32</sup> filed in the 2019 session provided an appropriation of \$2 million.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 394.9087, 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.

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

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<sup>30</sup> The VA Sunshine Healthcare Network provides a variety of medical services to veterans through an expansive regional coverage, including Florida; U.S. Department of Veterans Affairs, *VISN 8 Clinical Contact Center – 24/7 Virtual Urgent Care*, available at: <https://www.visn8.va.gov/ccs.asp> (last visited Jan. 28, 2021).

<sup>31</sup> FDVA Analysis, p. 4.

<sup>32</sup> SB 1222/HB365 (2019 Reg. Session).



727218

LEGISLATIVE ACTION

|            |   |       |
|------------|---|-------|
| Senate     | . | House |
| Comm: RS   | . |       |
| 03/03/2021 | . |       |
|            | . |       |
|            | . |       |
|            | . |       |

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

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 985.031, Florida Statutes, is created to  
read:

985.031 Age limitation; exception.—

(1) This section may be cited as the "Kaia Rolle Act."

(2) A child younger than 7 years of age may not be  
adjudicated delinquent, arrested, or charged with a violation of



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11 law or a delinquent act on the basis of acts occurring before he  
12 or she reaches 7 years of age, unless the violation of law is a  
13 forcible felony as defined in s. 776.08.

14 Section 2. Subsection (1) of section 985.101, Florida  
15 Statutes, is amended, and subsections (5) and (6) are added to  
16 that section, to read:

17 985.101 Taking a child into custody.—

18 (1) A child 15 years of age or older may be taken into  
19 custody under any of the following circumstances:

20 (a) Pursuant to an order of the circuit court issued under  
21 this chapter, based upon sworn testimony, either before or after  
22 a petition is filed.

23 (b) For a delinquent act or violation of law, pursuant to  
24 Florida law pertaining to a lawful arrest. If such delinquent  
25 act or violation of law would be a felony if committed by an  
26 adult or involves a crime of violence, the arresting authority  
27 shall immediately notify the district school superintendent, or  
28 the superintendent's designee, of the school district with  
29 educational jurisdiction of the child. Such notification must  
30 ~~shall~~ include other education providers, such as the Florida  
31 School for the Deaf and the Blind, university developmental  
32 research schools, and private elementary and secondary schools.  
33 The information obtained by the superintendent of schools  
34 pursuant to this section must be released within 48 hours after  
35 receipt to appropriate school personnel, including the principal  
36 of the child's school, or as otherwise provided by law. The  
37 principal must immediately notify the child's immediate  
38 classroom teachers. Information provided by an arresting  
39 authority under this paragraph may not be placed in the



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student's permanent record and must ~~shall~~ be removed from all school records no later than 9 months after the date of the arrest.

(c) By a law enforcement officer for failing to appear at a court hearing after being properly noticed.

(d) By a law enforcement officer who has probable cause to believe that the child is in violation of the conditions of the child's probation, supervised release detention, postcommitment probation, or conditional release supervision; has absconded from nonresidential commitment; or has escaped from residential commitment.

~~This Nothing in this~~ subsection may not ~~shall~~ be construed to allow the detention of a child who does not meet the detention criteria in part V of this chapter.

(5) A child 7 years of age or older but younger than 15 years of age may be taken into custody or arrested only under any of the following circumstances:

(a) By a law enforcement officer for failing to appear at a court hearing after being properly noticed.

(b) By a law enforcement officer who has probable cause to believe that the child has absconded from nonresidential commitment or has escaped from residential commitment.

(c) By a law enforcement officer who has probable cause to believe that the child committed a delinquent act or violation of law that resulted in the actual or threat of imminent serious bodily injury to another individual.

(d) By a law enforcement officer who has probable cause to believe that a forcible felony as defined in s. 776.08 has been



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committed.

This subsection may not be construed to allow the detention of a child who does not meet the detention criteria in part V of this chapter.

(6) A child 7 years of age or older enrolled in a public K-12 school as defined in s. 1000.04(1) or private school as defined in s. 1002.01(2) may be taken into custody or arrested at the school he or she attends only under any the following circumstances:

(a) By a law enforcement officer for failing to appear at a court hearing after being properly noticed.

(b) By a law enforcement officer who has probable cause to believe that the child committed a delinquent act or violation of law that resulted in the actual or threat of imminent serious bodily injury to another individual.

(c) By a law enforcement officer who has probable cause to believe that a forcible felony as defined in s. 776.08 has been committed.

This subsection may not be construed to allow the detention of a child who does not meet the detention criteria in part V of this chapter.

Section 3. Present subsection (4) of section 985.24, Florida Statutes, is redesignated as subsection (5), and a new subsection (4) is added to that section, to read:

985.24 Use of detention; prohibitions.—

(4) A child who is taken into custody pursuant to a summons, an arrest warrant, or any other circuit court order



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that does not explicitly require detention must be treated in the same manner as a child taken into custody under s. 985.101(1)(b) and may be detained only pursuant to a finding under subsection (1).

Section 4. For the purpose of incorporating the amendment made by this act to section 985.101, Florida Statutes, in a reference thereto, paragraph (b) of subsection (1) of section 960.001, Florida Statutes, is reenacted to read:

960.001 Guidelines for fair treatment of victims and witnesses in the criminal justice and juvenile justice systems.—

(1) The Department of Legal Affairs, the state attorneys, the Department of Corrections, the Department of Juvenile Justice, the Florida Commission on Offender Review, the State Courts Administrator and circuit court administrators, the Department of Law Enforcement, and every sheriff's department, police department, or other law enforcement agency as defined in s. 943.10(4) shall develop and implement guidelines for the use of their respective agencies, which guidelines are consistent with the purposes of this act and s. 16(b), Art. I of the State Constitution and are designed to implement s. 16(b), Art. I of the State Constitution and to achieve the following objectives:

(b) *Information for purposes of notifying victim or appropriate next of kin of victim or other designated contact of victim.*—In the case of a homicide, pursuant to chapter 782; or a sexual offense, pursuant to chapter 794; or an attempted murder or sexual offense, pursuant to chapter 777; or stalking, pursuant to s. 784.048; or domestic violence, pursuant to s. 25.385:

1. The arresting law enforcement officer or personnel of an



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organization that provides assistance to a victim or to the appropriate next of kin of the victim or other designated contact must request that the victim or appropriate next of kin of the victim or other designated contact complete a victim notification card. However, the victim or appropriate next of kin of the victim or other designated contact may choose not to complete the victim notification card.

2. Unless the victim or the appropriate next of kin of the victim or other designated contact waives the option to complete the victim notification card, a copy of the victim notification card must be filed with the incident report or warrant in the sheriff's office of the jurisdiction in which the incident report or warrant originated. The notification card shall, at a minimum, consist of:

- a. The name, address, and phone number of the victim; or
- b. The name, address, and phone number of the appropriate next of kin of the victim; or
- c. The name, address, and telephone number of a designated contact other than the victim or appropriate next of kin of the victim; and
- d. Any relevant identification or case numbers assigned to the case.

3. The chief administrator, or a person designated by the chief administrator, of a county jail, municipal jail, juvenile detention facility, or residential commitment facility shall make a reasonable attempt to notify the alleged victim or appropriate next of kin of the alleged victim or other designated contact within 4 hours following the release of the defendant on bail or, in the case of a juvenile offender, upon



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the release from residential detention or commitment. If the chief administrator, or designee, is unable to contact the alleged victim or appropriate next of kin of the alleged victim or other designated contact by telephone, the chief administrator, or designee, must send to the alleged victim or appropriate next of kin of the alleged victim or other designated contact a written notification of the defendant's release.

4. Unless otherwise requested by the victim or the appropriate next of kin of the victim or other designated contact, the information contained on the victim notification card must be sent by the chief administrator, or designee, of the appropriate facility to the subsequent correctional or residential commitment facility following the sentencing and incarceration of the defendant, and unless otherwise requested by the victim or the appropriate next of kin of the victim or other designated contact, he or she must be notified of the release of the defendant from incarceration as provided by law.

5. If the defendant was arrested pursuant to a warrant issued or taken into custody pursuant to s. 985.101 in a jurisdiction other than the jurisdiction in which the defendant is being released, and the alleged victim or appropriate next of kin of the alleged victim or other designated contact does not waive the option for notification of release, the chief correctional officer or chief administrator of the facility releasing the defendant shall make a reasonable attempt to immediately notify the chief correctional officer of the jurisdiction in which the warrant was issued or the juvenile was taken into custody pursuant to s. 985.101, and the chief



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correctional officer of that jurisdiction shall make a reasonable attempt to notify the alleged victim or appropriate next of kin of the alleged victim or other designated contact, as provided in this paragraph, that the defendant has been or will be released.

Section 5. For the purpose of incorporating the amendment made by this act to section 985.101, Florida Statutes, in a reference thereto, subsection (2) of section 985.439, Florida Statutes, is reenacted to read:

985.439 Violation of probation or postcommitment probation.—

(2) A child taken into custody under s. 985.101 for violating the conditions of probation shall be screened and detained or released based on his or her risk assessment instrument score.

Section 6. For the purpose of incorporating the amendment made by this act to section 985.24, Florida Statutes, in a reference thereto, subsection (1) of section 985.25, Florida Statutes, is reenacted to read:

985.25 Detention intake.—

(1) The department shall receive custody of a child who has been taken into custody from the law enforcement agency or court and shall review the facts in the law enforcement report or probable cause affidavit and make such further inquiry as may be necessary to determine whether detention care is appropriate.

(a) During the period of time from the taking of the child into custody to the date of the detention hearing, the initial decision as to the child's placement into detention care shall be made by the department under ss. 985.24 and 985.245(1).



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(b) The department shall base the decision whether to place the child into detention care on an assessment of risk in accordance with the risk assessment instrument and procedures developed by the department under s. 985.245, except that a child shall be placed in secure detention care until the child's detention hearing if the child meets the criteria specified in s. 985.255(1)(f) or is charged with possessing or discharging a firearm on school property in violation of s. 790.115.

(c) If the final score on the child's risk assessment instrument indicates detention care is appropriate, but the department otherwise determines the child should be released, the department shall contact the state attorney, who may authorize release.

(d) If the final score on the risk assessment instrument indicates detention is not appropriate, the child may be released by the department in accordance with ss. 985.115 and 985.13.

Under no circumstances shall the department or the state attorney or law enforcement officer authorize the detention of any child in a jail or other facility intended or used for the detention of adults, without an order of the court.

Section 7. This act shall take effect July 1, 2021.

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

And the title is amended as follows:

Delete everything before the enacting clause  
and insert:

A bill to be entitled

An act relating to juvenile justice; creating s.



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985.031, F.S.; providing a short title; prohibiting a child younger than a certain age from being adjudicated delinquent, arrested, or charged with a violation of law or a delinquent act; providing an exception; amending s. 985.101, F.S.; authorizing children of at least a specified age, rather than of any age, to be taken into custody under certain circumstances; authorizing children of specified ages to be taken into custody or arrested only under certain circumstances; providing construction; authorizing a child enrolled in a public K-12 school or private school to be taken into custody or arrested at the school he or she attends only under certain circumstances; providing construction; amending s. 985.24, F.S.; requiring that children who are taken into custody pursuant to certain circuit court orders be treated in a specified manner and be detained only pursuant to specified findings; reenacting ss. 960.001(1)(b) and 985.439(2), F.S., both relating to children being taken into custody, to incorporate the amendment made to s. 985.101, F.S., in references thereto; reenacting s. 985.25(1), F.S., relating to a detention intake, to incorporate the amendment made to s. 985.24, F.S., in a reference thereto; providing an effective date.



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LEGISLATIVE ACTION

|            |   |       |
|------------|---|-------|
| Senate     | . | House |
| Comm: RCS  | . |       |
| 03/03/2021 | . |       |
|            | . |       |
|            | . |       |
|            | . |       |

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

**Senate Substitute for Amendment (727218) (with title amendment)**

Delete everything after the enacting clause and insert:

Section 1. Section 985.031, Florida Statutes, is created to read:

985.031 Age limitation; exception.—

(1) This section may be cited as the "Kaia Rolle Act."

(2) A child younger than 7 years of age may not be



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adjudicated delinquent, arrested, or charged with a violation of  
law or a delinquent act on the basis of acts occurring before he  
or she reaches 7 years of age, unless the violation of law is a  
forcible felony as defined in s. 776.08.

Section 2. This act shall take effect July 1, 2021.

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

And the title is amended as follows:

Delete everything before the enacting clause  
and insert:

A bill to be entitled

An act relating to juvenile justice; creating s.  
985.031, F.S.; providing a short title; prohibiting a  
child younger than a certain age from being  
adjudicated delinquent, arrested, or charged with a  
violation of law or a delinquent act; providing an  
exception; providing an effective date.

By Senator Bracy

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A bill to be entitled  
An act relating to juvenile justice; amending s.  
985.03, F.S.; redefining the terms "child,"  
"juvenile," and "youth"; creating s. 985.031, F.S.;  
providing a short title; prohibiting a child younger  
than a certain age from being adjudicated delinquent,  
arrested, or charged with a violation of law or a  
delinquent act; providing an exception; amending s.  
985.101, F.S.; authorizing children of at least a  
specified age, rather than of any age, to be taken  
into custody under certain circumstances; authorizing  
children of specified ages to be taken into custody or  
arrested only under certain circumstances; providing  
construction; authorizing a child enrolled in a  
primary or secondary school to be taken into custody  
or arrested at the school he or she attends only under  
certain circumstances; providing construction;  
amending s. 985.24, F.S.; requiring that children who  
are taken into custody pursuant to certain circuit  
court orders be treated in a specified manner and be  
detained only pursuant to specified findings;  
reenacting s. 316.003(11), F.S., relating to the  
definition of the term "child," to incorporate the  
amendment made to s. 985.03, F.S., in a reference  
thereto; reenacting ss. 960.001(1)(b) and 985.439(2),  
F.S., both relating to children being taken into  
custody, to incorporate the amendment made to s.  
985.101, F.S., in references thereto; reenacting s.  
985.25(1), F.S., relating to a detention intake, to

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incorporate the amendment made to s. 985.24, F.S., in  
a reference thereto; providing an effective date.

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

Section 1. Subsection (7) of section 985.03, Florida  
Statutes, is amended to read:

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

(7) "Child," ~~or~~ "juvenile," or "youth" means any person 7  
years of age or older but younger than 18 years of age ~~under the~~  
~~age of 18~~ or any person who is alleged to have committed a  
violation of law occurring after the person reached 7 years of  
age or older and before ~~prior to the time~~ that person reached  
~~the age of 18 years of age.~~

Section 2. Section 985.031, Florida Statutes, is created to  
read:

985.031 Age limitation; exception.—

(1) This section may be cited as the "Kaia Rolle Act."

(2) A child younger than 7 years of age may not be  
adjudicated delinquent, arrested, or charged with a violation of  
law or a delinquent act on the basis of acts occurring before he  
or she reaches 7 years of age.

(3) This section does not apply to a child who commits a  
forcible felony as defined in s. 776.08.

Section 3. Subsection (1) of section 985.101, Florida  
Statutes, is amended, and subsections (5) and (6) are added to  
that section, to read:

985.101 Taking a child into custody.—

(1) A child 15 years of age or older may be taken into

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custody under any of the following circumstances:

(a) Pursuant to an order of the circuit court issued under this chapter, based upon sworn testimony, either before or after a petition is filed.

(b) For a delinquent act or violation of law, pursuant to Florida law pertaining to a lawful arrest. If such delinquent act or violation of law would be a felony if committed by an adult or involves a crime of violence, the arresting authority shall immediately notify the district school superintendent, or the superintendent's designee, of the school district with educational jurisdiction of the child. Such notification must ~~shall~~ include other education providers, such as the Florida School for the Deaf and the Blind, university developmental research schools, and private elementary and secondary schools. The information obtained by the superintendent of schools pursuant to this section must be released within 48 hours after receipt to appropriate school personnel, including the principal of the child's school, or as otherwise provided by law. The principal must immediately notify the child's immediate classroom teachers. Information provided by an arresting authority under this paragraph may not be placed in the student's permanent record and must ~~shall~~ be removed from all school records no later than 9 months after the date of the arrest.

(c) By a law enforcement officer for failing to appear at a court hearing after being properly noticed.

(d) By a law enforcement officer who has probable cause to believe that the child is in violation of the conditions of the child's probation, supervised release detention, postcommitment

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88 probation, or conditional release supervision; has absconded  
89 from nonresidential commitment; or has escaped from residential  
90 commitment.

91  
92 This ~~Nothing in this~~ subsection may not ~~shall~~ be construed to  
93 allow the detention of a child who does not meet the detention  
94 criteria in part V of this chapter.

95 (5) A child 7 years of age or older but younger than 15  
96 years of age may be taken into custody or arrested only under  
97 any of the following circumstances:

98 (a) By a law enforcement officer for failing to appear at a  
99 court hearing after being properly noticed.

100 (b) By a law enforcement officer who has probable cause to  
101 believe that the child has absconded from nonresidential  
102 commitment or has escaped from residential commitment.

103 (c) By a law enforcement officer who has probable cause to  
104 believe that detention is necessary to prevent an imminent  
105 threat of serious bodily harm to another individual.

106  
107 This subsection may not be construed to allow the detention of a  
108 child who does not meet the detention criteria in part V of this  
109 chapter.

110 (6) A child enrolled in a primary or secondary school may  
111 be taken into custody or arrested at the school he or she  
112 attends only under any the following circumstances:

113 (a) By a law enforcement officer for failing to appear at a  
114 court hearing after being properly noticed.

115 (b) By a law enforcement officer who has probable cause to  
116 believe that detention is necessary to prevent an imminent

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117 threat of serious bodily harm to another individual.

118  
119 This subsection may not be construed to allow the detention of a  
120 child who does not meet the detention criteria in part V of this  
121 chapter.

122 Section 4. Present subsection (4) of section 985.24,  
123 Florida Statutes, is redesignated as subsection (5), and a new  
124 subsection (4) is added to that section, to read:

125 985.24 Use of detention; prohibitions.—

126 (4) A child who is taken into custody pursuant to a  
127 summons, an arrest warrant, or any other circuit court order  
128 that does not explicitly require detention must be treated in  
129 the same manner as a child taken into custody under s.  
130 985.101(1) (b) and may be detained only pursuant to a finding  
131 under subsection (1).

132 Section 5. For the purpose of incorporating the amendment  
133 made by this act to section 985.03, Florida Statutes, in a  
134 reference thereto, subsection (11) of section 316.003, Florida  
135 Statutes, is reenacted to read:

136 316.003 Definitions.—The following words and phrases, when  
137 used in this chapter, shall have the meanings respectively  
138 ascribed to them in this section, except where the context  
139 otherwise requires:

140 (11) CHILD.—A child as defined in s. 39.01, s. 984.03, or  
141 s. 985.03.

142 Section 6. For the purpose of incorporating the amendment  
143 made by this act to section 985.101, Florida Statutes, in a  
144 reference thereto, paragraph (b) of subsection (1) of section  
145 960.001, Florida Statutes, is reenacted to read:

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146 960.001 Guidelines for fair treatment of victims and  
147 witnesses in the criminal justice and juvenile justice systems.-

148 (1) The Department of Legal Affairs, the state attorneys,  
149 the Department of Corrections, the Department of Juvenile  
150 Justice, the Florida Commission on Offender Review, the State  
151 Courts Administrator and circuit court administrators, the  
152 Department of Law Enforcement, and every sheriff's department,  
153 police department, or other law enforcement agency as defined in  
154 s. 943.10(4) shall develop and implement guidelines for the use  
155 of their respective agencies, which guidelines are consistent  
156 with the purposes of this act and s. 16(b), Art. I of the State  
157 Constitution and are designed to implement s. 16(b), Art. I of  
158 the State Constitution and to achieve the following objectives:

159 (b) *Information for purposes of notifying victim or*  
160 *appropriate next of kin of victim or other designated contact of*  
161 *victim.*-In the case of a homicide, pursuant to chapter 782; or a  
162 sexual offense, pursuant to chapter 794; or an attempted murder  
163 or sexual offense, pursuant to chapter 777; or stalking,  
164 pursuant to s. 784.048; or domestic violence, pursuant to s.  
165 25.385:

166 1. The arresting law enforcement officer or personnel of an  
167 organization that provides assistance to a victim or to the  
168 appropriate next of kin of the victim or other designated  
169 contact must request that the victim or appropriate next of kin  
170 of the victim or other designated contact complete a victim  
171 notification card. However, the victim or appropriate next of  
172 kin of the victim or other designated contact may choose not to  
173 complete the victim notification card.

174 2. Unless the victim or the appropriate next of kin of the

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175 victim or other designated contact waives the option to complete  
176 the victim notification card, a copy of the victim notification  
177 card must be filed with the incident report or warrant in the  
178 sheriff's office of the jurisdiction in which the incident  
179 report or warrant originated. The notification card shall, at a  
180 minimum, consist of:

- 181 a. The name, address, and phone number of the victim; or
- 182 b. The name, address, and phone number of the appropriate  
183 next of kin of the victim; or
- 184 c. The name, address, and telephone number of a designated  
185 contact other than the victim or appropriate next of kin of the  
186 victim; and
- 187 d. Any relevant identification or case numbers assigned to  
188 the case.

189 3. The chief administrator, or a person designated by the  
190 chief administrator, of a county jail, municipal jail, juvenile  
191 detention facility, or residential commitment facility shall  
192 make a reasonable attempt to notify the alleged victim or  
193 appropriate next of kin of the alleged victim or other  
194 designated contact within 4 hours following the release of the  
195 defendant on bail or, in the case of a juvenile offender, upon  
196 the release from residential detention or commitment. If the  
197 chief administrator, or designee, is unable to contact the  
198 alleged victim or appropriate next of kin of the alleged victim  
199 or other designated contact by telephone, the chief  
200 administrator, or designee, must send to the alleged victim or  
201 appropriate next of kin of the alleged victim or other  
202 designated contact a written notification of the defendant's  
203 release.

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204           4. Unless otherwise requested by the victim or the  
205 appropriate next of kin of the victim or other designated  
206 contact, the information contained on the victim notification  
207 card must be sent by the chief administrator, or designee, of  
208 the appropriate facility to the subsequent correctional or  
209 residential commitment facility following the sentencing and  
210 incarceration of the defendant, and unless otherwise requested  
211 by the victim or the appropriate next of kin of the victim or  
212 other designated contact, he or she must be notified of the  
213 release of the defendant from incarceration as provided by law.

214           5. If the defendant was arrested pursuant to a warrant  
215 issued or taken into custody pursuant to s. 985.101 in a  
216 jurisdiction other than the jurisdiction in which the defendant  
217 is being released, and the alleged victim or appropriate next of  
218 kin of the alleged victim or other designated contact does not  
219 waive the option for notification of release, the chief  
220 correctional officer or chief administrator of the facility  
221 releasing the defendant shall make a reasonable attempt to  
222 immediately notify the chief correctional officer of the  
223 jurisdiction in which the warrant was issued or the juvenile was  
224 taken into custody pursuant to s. 985.101, and the chief  
225 correctional officer of that jurisdiction shall make a  
226 reasonable attempt to notify the alleged victim or appropriate  
227 next of kin of the alleged victim or other designated contact,  
228 as provided in this paragraph, that the defendant has been or  
229 will be released.

230           Section 7. For the purpose of incorporating the amendment  
231 made by this act to section 985.101, Florida Statutes, in a  
232 reference thereto, subsection (2) of section 985.439, Florida

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Statutes, is reenacted to read:

985.439 Violation of probation or postcommitment probation.—

(2) A child taken into custody under s. 985.101 for violating the conditions of probation shall be screened and detained or released based on his or her risk assessment instrument score.

Section 8. For the purpose of incorporating the amendment made by this act to section 985.24, Florida Statutes, in a reference thereto, subsection (1) of section 985.25, Florida Statutes, is reenacted to read:

985.25 Detention intake.—

(1) The department shall receive custody of a child who has been taken into custody from the law enforcement agency or court and shall review the facts in the law enforcement report or probable cause affidavit and make such further inquiry as may be necessary to determine whether detention care is appropriate.

(a) During the period of time from the taking of the child into custody to the date of the detention hearing, the initial decision as to the child's placement into detention care shall be made by the department under ss. 985.24 and 985.245(1).

(b) The department shall base the decision whether to place the child into detention care on an assessment of risk in accordance with the risk assessment instrument and procedures developed by the department under s. 985.245, except that a child shall be placed in secure detention care until the child's detention hearing if the child meets the criteria specified in s. 985.255(1)(f) or is charged with possessing or discharging a firearm on school property in violation of s. 790.115.

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(c) If the final score on the child's risk assessment instrument indicates detention care is appropriate, but the department otherwise determines the child should be released, the department shall contact the state attorney, who may authorize release.

(d) If the final score on the risk assessment instrument indicates detention is not appropriate, the child may be released by the department in accordance with ss. 985.115 and 985.13.

Under no circumstances shall the department or the state attorney or law enforcement officer authorize the detention of any child in a jail or other facility intended or used for the detention of adults, without an order of the court.

Section 9. This act shall take effect July 1, 2021.

## The Florida Senate COMMITTEE VOTE RECORD

**COMMITTEE:** Children, Families, and Elder Affairs  
**ITEM:** SB 626  
**FINAL ACTION:** Favorable with Committee Substitute  
**MEETING DATE:** Tuesday, March 2, 2021  
**TIME:** 4:00—6:00 p.m.  
**PLACE:** 37 Senate Building

| FINAL VOTE |     |                       | 3/02/2021<br>Amendment 727218 |     | 3/02/2021<br>Amendment 102308 |     |     |     |
|------------|-----|-----------------------|-------------------------------|-----|-------------------------------|-----|-----|-----|
| Yea        | Nay | SENATORS              | Yea                           | Nay | Yea                           | Nay | Yea | Nay |
| X          |     | Brodeur               |                               |     |                               |     |     |     |
| X          |     | Garcia                |                               |     |                               |     |     |     |
| X          |     | Harrell               |                               |     |                               |     |     |     |
| X          |     | Rouson                |                               |     |                               |     |     |     |
| X          |     | Torres                |                               |     |                               |     |     |     |
| X          |     | Wright                |                               |     |                               |     |     |     |
| X          |     | Albritton, VICE CHAIR |                               |     |                               |     |     |     |
| X          |     | Book, CHAIR           |                               |     |                               |     |     |     |
|            |     |                       |                               |     |                               |     |     |     |
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CODES: FAV=Favorable  
UNF=Unfavorable  
-R=Reconsidered

RCS=Replaced by Committee Substitute  
RE=Replaced by Engrossed Amendment  
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed  
VA=Vote After Roll Call  
VC=Vote Change After Roll Call

WD=Withdrawn  
OO=Out of Order  
AV=Abstain from Voting

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

3/2/21  
Meeting Date

626  
Bill Number (if applicable)

Topic Juvenile Justice

Amendment Barcode (if applicable)

Name Kara Gross

Job Title Legislative Director & Senior Policy Counsel

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Street

Phone 786-363-4436

Miami  
City

FL  
State

33134  
Zip

Email kgross@aclufl.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing ACLU of Florida

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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Duplicate

03/02/2021

Meeting Date

THE FLORIDA SENATE

## APPEARANCE RECORD

626

Bill Number (if applicable)

Topic Juvenile Justice

Name Ingrid Delgado

Amendment Barcode (if applicable)

Job Title Associate Director for Social Concerns and Respect Life

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32301

Zip

Phone 850-339-0075

Email idelgado@flaccb.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Conference of Catholic Bishops

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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THE FLORIDA SENATE

# APPEARANCE RECORD

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

CITIL0 / FAM

3/2/21

Meeting Date

626

Bill Number (if applicable)

Topic JUVENILE JUSTICE

Name REV DR RUSSELL MEYER

Job Title EXEC DIR

Address 1308 WINDSOR PL

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JACKSONVILLE

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FL

State

32205

Zip

Phone 813 435 5335

Email advocacy@floridachurches.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing FL FAITH ADVOCACY OFFICE

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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THE FLORIDA SENATE

APPEARANCE RECORD

3/2/2021

Meeting Date

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

626

Bill Number (if applicable)

Topic Juvenile Justice

Name Karen Woodall

Job Title Executive Director

Address 579 E. Coll St.

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Zip

32301

Phone

850-321-9386

Email

fcfcfp@yahoo.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing FI Center for Fiscal & Economic Policy

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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Reset Form

3/1/2021

Meeting Date

THE FLORIDA SENATE

## APPEARANCE RECORD

626

Bill Number (if applicable)

Topic Juvenile Justice

Name Pamela Burch Fort

Amendment Barcode (if applicable)

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

Address 104 S. Monroe Street

Street

Tallahassee

City

FL

State

32301

Zip

Phone 850-425-1344

Email TcgLobby@aol.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing NAACP Florida State Conference

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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THE FLORIDA SENATE

APPEARANCE RECORD

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

3/2/21  
Meeting Date

626  
Bill Number (if applicable)

Topic Juvenile Justice

Name Nancy Daniels

Amendment Barcode (if applicable)

Job Title Executive Director, Florida Public Defender Association

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City

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32301  
Zip

Phone 850 488-6850

Email ndaniels@flpda.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Public Defender Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

3/2/21

Meeting Date

626

Bill Number (if applicable)

Topic

Juvenile Justice

Name

Ida V. Eskamani

Amendment Barcode (if applicable)

Job Title

Address

Street

Phone

City

State

Zip

Email

Speaking:

☐

For

☐

Against

☐

Information

Waive Speaking:

☒

In Support

☐

Against

(The Chair will read this information into the record.)

Representing

Florida Rising

Appearing at request of Chair:

☐

Yes

☐

No

Lobbyist registered with Legislature:

☒

Yes

☐

No

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**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

3/2/21  
*Meeting Date*

SB 626  
*Bill Number (if applicable)*

Topic Juvenile Justice

*Amendment Barcode (if applicable)*

Name Jorge Chamizo

Job Title Attorney

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*Street*

Phone 850-681-0024

Tallahassee FL 32301  
*City State Zip*

Email jorge@flapartners.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
*(The Chair will read this information into the record.)*

Representing Florida Association of Criminal Defense Lawyers

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/2/21

Meeting Date

SB 626

Bill Number (if applicable)

Topic Juvenile Justice

Name Brita Lincoln

Amendment Barcode (if applicable)

Job Title Legislation Committee

Address 1747 Orlando Central Pkwy

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32809

Zip

Phone 407-855-7604

Email bulkinslincoln@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida FTA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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THE FLORIDA SENATE

APPEARANCE RECORD

03/02/2021  
Meeting Date

SB 626  
Bill Number (if applicable)

Topic Juvenile Justice

Amendment Barcode (if applicable)

Name Sean Pittman

Job Title Attorney

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Phone (850) 216-1002

Tallahassee FL 32301  
City State Zip

Email sean@pittman-law.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Broward County

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

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**THE FLORIDA SENATE**

**APPEARANCE RECORD**

March 2, 2021

*Meeting Date*

626

*Bill Number (if applicable)*

Topic Juvenile Justice

*Amendment Barcode (if applicable)*

Name Barney Bishop III

Job Title Chief Executive Officer

Address 2215 Thomasville Road

Phone 850.510.9922

*Street*

Tallahassee

FL

32308

*City*

*State*

*Zip*

Email barney@barneybishop.com

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Smart Justice Allaince

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 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/2/21  
Meeting Date

626  
Bill Number (if applicable)

Topic Kaia Rolle

Amendment Barcode (if applicable)

Name Marilyn Kirkland

Job Title Rep / Grandmother

Address \_\_\_\_\_  
Street

Phone \_\_\_\_\_

City

State

Zip

Email \_\_\_\_\_

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing \_\_\_\_\_

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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

S-001 (10/14/14)

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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

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BILL: CS/SB 626

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

SUBJECT: Juvenile Justice

DATE: March 3, 2021

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

|    | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION        |
|----|---------|----------------|-----------|---------------|
| 1. | Moody   | Cox            | CF        | <b>Fav/CS</b> |
| 2. |         |                | CJ        |               |
| 3. |         |                | AP        |               |

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

The bill, also cited as the “Kaia Rolle Act”, creates s. 985.031, F.S., prohibiting children under the age of 7 from being arrested, charged with a violation of law, or adjudicated delinquent for any acts that occur before he or she reaches 7 years of age except for any child who commits a forcible felony as defined in s. 776.08, F.S.

The bill does not appear to have a fiscal impact on state or local governments. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2021.

**II. Present Situation:**

**Juvenile Capability**

There are various age limitations on criminal liability throughout the United States. A recent United Nations study suggests that all member states should set a minimum age of criminal responsibility no younger than age 14.<sup>1</sup> Several states have enacted legislation to establish a minimum age at which children may be held criminally liable.<sup>2</sup> Of the states that have passed

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<sup>1</sup> *Id.*

<sup>2</sup> NJDC Article; See also Interstate Commission for Juveniles, *Age Matrix*, available at <https://www.juvenilecompact.org/age-matrix> (last visited February 11, 2021).

this legislation, the minimum age ranges from 6 to 12 years of age.<sup>3</sup> For instance, Massachusetts law protects children 12 years of age or younger from criminal liability<sup>4</sup> whereas the age limit in North Carolina is 6 years of age or younger.<sup>5</sup> Fifteen jurisdictions set the minimum age at 10.<sup>6</sup> Some states have adopted exceptions to the minimum age requirement, such as Nevada which exempts children who are 10 years of age or younger from criminal liability unless the child between 8 to 10 years old is charged with murder or a sexual offense.<sup>7</sup>

Model Penal Code (MPC) sets out four mens rea that may be required to show culpability for any valid criminal conviction,<sup>8</sup> namely purposely,<sup>9</sup> knowingly,<sup>10</sup> recklessly,<sup>11</sup> and negligently.<sup>12</sup> Mens rea is not required for a person to be convicted of a crime that provides for strict liability.<sup>13</sup> Some studies suggest and precedents from the U.S. Supreme Court have held that adolescents have a diminished capacity to make consistent choices, engage in self-management, assess risk perception, and calculate future consequences,<sup>14</sup> in other words, to formulate a mens rea.

### Offenses Committed by Children

A person may not be tried for a capital crime without presentment or indictment by a grand jury, or for other felony without such presentment or indictment or an information under oath filed by the prosecuting officer of the court, except persons on active duties in the militia when tried by courts martial.<sup>15</sup>

<sup>3</sup> National Juvenile Defender Center, *Minimum Age for Delinquency Adjudication – Multi-jurisdiction Survey*, available at <https://njdc.info/practice-policy-resources/state-profiles/multi-jurisdiction-data/minimum-age-for-delinquency-adjudication-multi-jurisdiction-survey/> (last visited February 11, 2021) (hereinafter cited as “NJDC Article”).

<sup>4</sup> Section 119.52, Mass. Gen. Laws Ann. Ch.

<sup>5</sup> Section 7B-1501(7), N.C. Gen. Stat. Ann.

<sup>6</sup> NJDC Article (citing American Samoa, Arkansas, Arizona, Colorado, Kansas, Louisiana, Minnesota, Mississippi, Nevada, North Dakota, Pennsylvania, South Dakota, Texas, Vermont, and Wisconsin).

<sup>7</sup> Section 194.010, N.R.S.

<sup>8</sup> Section 2.02(1), MPC.

<sup>9</sup> Section 2.02(2)(a), MPC. If the material element of an offense involves the nature of a person’s conduct or a result thereof, a person acts purposely when it is his conscious object to engage in conduct of that nature or to cause such a result, and, if a material element involves the attendant circumstances, he is aware of them or he believes or hopes that they exist. Material element means issues relating to the harm or evil sought to be prevented by the law. MPC § 1.13(10).

<sup>10</sup> Section 2.02(2)(b), MPC. If a material element of an offense involves the nature of a person’s conduct or the attendant circumstances, a person acts knowingly when he is aware that his conduct is of that nature or that such circumstances exist, and, if the material element involves the result of his conduct, he is aware that it is practically certain that his conduct will cause such a result.

<sup>11</sup> Section 2.02(2)(c), MPC. A person acts recklessly with respect to a material element of an offense when he consciously disregards a substantial and unjustifiable risk that the material element exists or will result from his conduct. The risk must be of such a nature and degree that, considering the nature and purpose of the actor’s conduct and the circumstances known to him, his conduct involves a gross deviation from the standard that a law-abiding person would observe in the actor’s situation.

<sup>12</sup> Section 2.02(2)(d). A person acts negligently with respect to a material element of an offense when he should be aware of a substantial and unjustifiable risk that the material element exists or will result from his conduct. The risk must be of such a nature and degree that the actor’s failure to perceive it, considering the nature and purpose of his conduct and the circumstances known to him, involves a gross deviation from the standard of care that a reasonable person would observe in the actor’s situation.

<sup>13</sup> Section 2.02, MPC.

<sup>14</sup> Jenny E. Carroll, *Brain Science and the Theory of Juvenile Mens Rea*, 94 N.C. L. REV. 539, 582 (2016). See also *Roper v. Simmons*, 543 U.S. 551 (2005); *Graham v. Florida*, 560 U.S. 48 (2010); *Miller v. Alabama*, 567 U.S. 460 (2012).

<sup>15</sup> FLA. CONST. art. I, s. 15(a).

However, a child may be charged with a violation of law as an act of delinquency instead of a crime and tried without a jury or other requirements applicable to criminal cases.<sup>16</sup> If a child is found to be delinquent, he or she must be disciplined as provided by law.<sup>17</sup>

Under ch. 985, F.S., the terms child, juvenile or youth currently mean any person under the age of 18 or any person who is alleged to have committed a violation of law occurring prior to the time that person reached the age of 18 years.<sup>18</sup> However, Florida law does not presently restrict the age in which a child, juvenile, or youth may be arrested, charged with a violation of the law, or adjudicated dependent.

### **Florida's Juvenile Justice System**

The Department of Juvenile Justice (DJJ) is tasked with providing a full continuum of care to youth, including but not limited to, prevention,<sup>19</sup> diversion,<sup>20</sup> and detention,<sup>21</sup> probation,<sup>22</sup> residential commitment.<sup>23, 24</sup>

#### ***Prevention Services***

The purpose of prevention services mandated under ch. 985, F.S., is to reduce recidivism, protect public safety, and assist with at-risk youth's reentry into the community.<sup>25</sup> As a condition of state funds, the DJJ is required, in part, to design programs providing services to further one or more of the following strategies:

- Design the programs providing such services to further one or more of the following strategies:
  - Encouraging youth to attend and succeed in school.
  - Engaging youth in productive and wholesome activities during non-school hours that build positive character, instill positive values, and enhance educational experiences.
  - Encouraging youth to avoid the use of violence.
  - Assisting youth in acquiring the skills needed to find meaningful employment, which may include assisting the youth in finding a suitable employer.
- Provide demographic information, dates of services, and types of interventions received by each youth.<sup>26</sup>

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<sup>16</sup> FLA. CONST. art. I, s. 15(b).

<sup>17</sup> *Id.*

<sup>18</sup> Section 985.03(7), F.S.

<sup>19</sup> See s. 985.17, F.S.

<sup>20</sup> Section 985.12, F.S. (providing for civil citation or similar arrest diversion programs).

<sup>21</sup> Chapter 985, Part V, F.S.

<sup>22</sup> Section 985.435, F.S.

<sup>23</sup> Section 985.441, F.S. The DJJ is also responsible for probation services (s. 985.435, F.S.) and residential commitment (s. 985.441, F.S.). Sections 985.435(1) and 985.441(1), F.S., provide the court with jurisdiction to sanction children who are adjudicated delinquent to probation or residential commitment.

<sup>24</sup> The DJJ, *Agency Analysis for SB 626*, p. 2, February 8, 2021 (On file with the Senate Committee on Children, Families, and Elder Affairs) (hereinafter cited as "DJJ Analysis").

<sup>25</sup> Section 985.17(1), F.S.

<sup>26</sup> Section 985.17(4)(a), F.S.

For FY 2019-2020, the DJJ reports that 990 children under the age of 7 were admitted to a prevention program.<sup>27</sup> The DJJ partners with several agencies and other organizations to provide these services to the children, including, in part, the:

- Department of Children and Families;
- Department of Juvenile Justice; and
- Prevention Partnership.

### ***Civil Citations***

Each judicial circuit must establish a civil citation or similar diversion program.<sup>28</sup> These programs are designed to divert children who have committed misdemeanor offenses from the juvenile delinquency system.<sup>29</sup>

Each circuit must determine which misdemeanor offenses qualify and other eligibility of the program.<sup>30</sup> Examples of program requirements include community service, restitution, family counseling, substance abuse and mental health treatment.<sup>31</sup> A civil citation or similar diversion program has been implemented in 65 counties in Florida.<sup>32</sup> Bradford and Hardee counties have not established such a program.<sup>33</sup>

Since 2011, over 76,000 eligible first-time youth offenders who have committed a misdemeanor offense have been offered a civil citation pre-arrest to participate in a diversion program.<sup>34</sup>

### ***Notice to Appear***

When a child violates the law, the arresting officer may elect to release the child as provided by law to a parent, responsible adult relative, or legal guardian, and issue a notice to appear at a designated court or government office at a specified date and time provided conditions articulated under the rules are met.<sup>35</sup>

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<sup>27</sup> The DJJ, Electronic mail from Rachel Moscoso, Legislative Affairs Director, RE: Agency Bill Analysis for SB 626, February 8, 2021 (on file with the Senate Committee on Children, Families, and Elder Affairs) (noting that prevention services serve at-risk youth but the 990 children who participated in the prevention services were not due to a delinquent act or charge).

<sup>28</sup> Section 985.12(1), F.S.

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

<sup>30</sup> Section 985.12(2)(b)1. and 2., F.S.

<sup>31</sup> Section 985.12(2)(b)4., F.S. The DJJ, *Overview Look Here to Locate the Civil Citation Provider in your Area*, available at <http://www.djj.state.fl.us/partners/our-approach/florida-civil-citation> (last visited February 11, 2021) (listing the civil citation and similar prearrest diversion programs in Florida, and depicting the process for civil citation and similar prearrest diversion programs in a flow chart).

<sup>32</sup> Florida Department of Juvenile Justice, *Civil Citation Implementation by County as of October 2019*, available at <http://www.djj.state.fl.us/docs/probation-policy-memos/civil-citation-implementation-map-10-2020.pdf?sfvrsn=4> (last visited February 11, 2021).

<sup>33</sup> *Id.*

<sup>34</sup> DJJ Analysis at p. 2. See also The DJJ, *Civil Citation and Similar Diversion Program Best Practices Guide*, (2020), available at <http://www.djj.state.fl.us/docs/probation-policy-memos/civil-citation-and-similar-diversion-program-best-practices-guide-2020.pdf?sfvrsn=2> (last visited February 11, 2021) (explaining statewide utilization for the fiscal year 2019-20 was 59 percent).

<sup>35</sup> See Rule 8.045(b), Fla. R. Juv. P. An officer may issue a notice to appear unless: (1) the child fails or refuses to sufficiently identify himself or herself or supply the required information; (2) the child refuses to sign the notice to appear; (3) the officer has reason to believe that the continued liberty of the child constitutes an unreasonable risk of bodily injury to the child or others; (4) the child has no ties with the jurisdiction reasonably sufficient to ensure an appearance or there is substantial risk

### ***Taking a Child Into Custody***

Art. 1, s. 14 of the Florida Constitution states that unless charged with a capital offense or an offense punishable by life imprisonment and the proof of guilt is evident or the presumption is great, every person charged with a crime or violation of law shall be entitled to pretrial release on reasonable conditions. If no conditions of release can reasonably protect the community from risk of physical harm to persons, assure the presence of the accused at trial, or assure the integrity of the judicial process, the accused may be detained.

The Florida Statutes does not presently distinguish the circumstances under which a child may be taken into custody based on the age of the youth. Section 985.101(1), F.S., provides, in part, that any child may be taken into custody in the following circumstances:

- Pursuant to an order of the circuit court, based upon sworn testimony, either before or after a petition is filed;
- For a delinquent act or violation of law, pursuant to Florida law pertaining to a lawful arrest;
- By a law enforcement officer for failing to appear at a court hearing after being properly noticed; or
- By a law enforcement officer who has probable cause to believe that:
  - The child is in violation of the conditions of the child's probation, supervised release detention, postcommitment probation;
  - Conditional release supervision;
  - Has absconded from nonresidential commitment; or
  - Has escaped from residential commitment.<sup>36</sup>

### ***Intake and Assessment***

Every child under the age of 18 charged with a crime in Florida is referred to the DJJ.<sup>37</sup> Intake and screening services for youth referred to the DJJ are performed at a Juvenile Assessment Center (JAC),<sup>38</sup> but must be performed by a the DJJ employee.<sup>39</sup> Once brought into intake, the DJJ assigns the child a juvenile probation officer (JPO) to determine what, if any, detention care is necessary.<sup>40</sup> The JPO makes an initial decision regarding detention care placement using the "Detention Risk Assessment Instrument."<sup>41</sup> In certain instances, the JPO does not have discretion and must place a child in secure detention (e.g., when a child is charged with possessing or

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that the child will refuse to respond to the notice; (5) the officer has any suspicion that the child may be wanted in any jurisdiction; or (6) it appears that the child has previously failed to respond to a notice or a summons or has violated the conditions of any pretrial release program.

<sup>36</sup> Section 985.101(1)(a), F.S.

<sup>37</sup> A referral is similar to an arrest in the adult criminal justice system. See the DJJ, *Probation and Community Intervention, Overview*, available at <http://www.djj.state.fl.us/services/probation> (last visited February 11, 2021).

<sup>38</sup> Section 985.135(4), F.S.

<sup>39</sup> Section 985.14(2), F.S.

<sup>40</sup> Section 985.25(1), F.S.

<sup>41</sup> Sections 985.25(1)(b) and 985.245, F.S. Section 985.245, F.S., outlines with whom the Detention Risk Assessment Instrument must be developed, when and how it must be updated, and what factors the assessment instrument should identify when evaluating a child to determine whether detention placement is appropriate.

discharging a firearm on school property).<sup>42</sup> The JPO serves as the primary case manager responsible for managing, coordinating, and monitoring services provided to the child.<sup>43</sup>

### ***Detention Care System***

Detention care is the temporary care of children pursuant to an adjudication or order of the court.<sup>44</sup> Children may be detained in either secure<sup>45</sup> or supervised release detention.<sup>46</sup>

Section 985.24(1), F.S., provides guidelines for the court to use in ordering detention care that address the child's prior history with the juvenile justice system, and other risk factors.<sup>47</sup>

A child may not be held in detention for more than 24 hours without a detention hearing.<sup>48</sup> A detention hearing is conducted by a circuit judge who reviews the assessment instrument to determine if there is probable cause that the child committed the offense and the need for continued detention.<sup>49</sup> A court's detention order must include specific instructions for release of the child from detention.<sup>50</sup>

### ***Probation or Postcommitment Probation (Probation)***

A child's probation program must include both a penalty and a rehabilitative component.<sup>51</sup> Each child is assigned a juvenile probation officer who monitors the child's compliance and helps the child connect with service providers.

If the child does not comply with terms of probation, the child may be brought before the court on a violation of probation. The violation may be a substantive violation for committing a new criminal offense or a technical violation for failure to comply with a condition of probation.<sup>52</sup> If a child admits to the violation or is found by the court to have violated probation, the court must enter an order revoking, modifying, or continuing probation.<sup>53</sup> Specifically, the court may:

- Place the child into an alternative consequence program;

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<sup>42</sup> Section 985.25(1)(b), F.S.

<sup>43</sup> Section 985.145(1), F.S.

<sup>44</sup> Section 985.03(18), F.S.

<sup>45</sup> Section 985.03(18)(a), F.S., defines "secure detention" as temporary custody of the child while the child is under the physical restriction of a detention center or facility pending adjudication, disposition, or placement.

<sup>46</sup> Section 985.03(18)(b), F.S., defines "supervised release detention" as temporary, nonsecure custody of the child while the child is released to the custody of the parent, guardian, or custodian in a physically nonrestrictive environment under the supervision of the department staff pending adjudication or disposition, through programs that include, but are not limited to, electronic monitoring, day reporting centers, and nonsecure shelters. Supervised release detention may include other requirements imposed by court.

<sup>47</sup> Section 985.24(1), F.S., Factors including but not limited to not appearing at a hearing and requests protection from imminent bodily harm.

<sup>48</sup> Section 985.26(1), F.S. The child has the right to be represented at this hearing or can waive the right under S. 985.033, F.S.

<sup>49</sup> Section 985.255(3), F.S.

<sup>50</sup> *Id.* Under s. 985.26(2), F.S., a 21-day limit applies to a detention order but may be held up to 30 days if the child is charged with what would be, if committed by an adult, a capital felony, a life felony, a first degree felony, or a second degree felony offense.

<sup>51</sup> Section 985.435(2) and (3), F.S., give examples of what these components include.

<sup>52</sup> See *Meeks v. State*, 754 So.2d 101, 103-104 (Fla. 1st DCA 2000); *Johnson v. State*, 678 So.2d 934, 934-935 (Fla. 3d DCA 1996).

<sup>53</sup> Section 985.439(4), F.S.

- Place the child on home detention with electronic monitoring;
- Modify or continue the child's probation; or
- Revoke probation and commit the child to the DJJ.<sup>54</sup>

### ***Residential Commitment***

The court may commit the child to a nonresidential or residential facility.<sup>55</sup> Commitment programs vary by “restrictiveness level,” defined in s. 985.03(44), F.S., as “the level of programming and security provided by programs that service the supervision, custody, care, and treatment needs of committed children.” Levels of commitment are:

- Minimum-risk nonresidential where children remain in their community and participate at least 5 days a week in day treatment;
- Nonsecure residential where children are in a residential program and have supervised access to their community;
- High-risk residential where children are not allowed access to their community with limited exception; and
- Maximum-risk residential including juvenile correctional facilities or juvenile prisons that do not allow the children to have any access to their community.<sup>56</sup>

If the court determines the child should be adjudicated delinquent and committed to the DJJ through court order,<sup>57</sup> the DJJ must recommend the restrictiveness level for the child. The court may commit the child at a different restrictiveness level but must set out findings for departure in the record based on a preponderance of the evidence.<sup>58</sup>

### **Data on Offenses Committed by Juveniles**

The DJJ reports that in FY 2019-20 12,224 youth between the ages of 7 and 14 years of age were referred to the DJJ for charges ranging from murder and kidnapping to armed robbery and sexual battery.<sup>59</sup> The most common of these offenses were misdemeanor assault/battery (19%), burglary (14%), felony aggravated assault/battery (11%), and petit theft (5%).<sup>60</sup> A total of 2,200 youth ages 7 years or older but younger than 15 years of age were admitted to secure detention.<sup>61</sup>

### **Interstate Compact on Juveniles**

The Interstate Compact for Juveniles is an agreement amongst compacting states to be responsible for the safe return of juveniles who are on probation or parole and who have absconded, escaped, or run away from supervision and control.<sup>62</sup> The Governor must execute an interstate compact for juveniles on behalf of Florida with any other state who joins the

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<sup>54</sup> Section 985.439(4)(d), F.S.

<sup>55</sup> Section 985.441, F.S.

<sup>56</sup> Section 985.03(44), F.S. Florida law caps the number of beds at maximum-risk residential facilities at 90 beds.

<sup>57</sup> Section 985.441(1), F.S.

<sup>58</sup> Section 985.441(2), F.S.

<sup>59</sup> DJJ Analysis at p. 3.

<sup>60</sup> *Id.*

<sup>61</sup> *Id.*

<sup>62</sup> Interstate Commission for Juveniles (ICJ), *The Interstate Compact for Juveniles*, p. 1, available at <https://www.juvenilecompact.org/sites/default/files/ICJRevisedLanguage.pdf> (last visited February 10, 2021).

compact.<sup>63</sup> The compact does not limit the Legislature’s ability to determine policy regarding juvenile offenders and non-offenders within Florida,<sup>64</sup> or restrict the definition of juvenile by age limit.<sup>65</sup>

### **Forcible Felony Offenses**

Section 776.08, F.S., defines “forcible felony” to mean:

- Treason;<sup>66</sup>
- Murder;<sup>67</sup>
- Manslaughter;<sup>68</sup>
- Sexual battery;<sup>69</sup>
- Carjacking;<sup>70</sup>
- Home-invasion robbery;<sup>71</sup>
- Robbery;<sup>72</sup>
- Burglary;<sup>73</sup>
- Arson;<sup>74</sup>
- Kidnapping;<sup>75</sup>
- Aggravated assault;<sup>76</sup>
- Aggravated battery;<sup>77</sup>
- Aggravated stalking;<sup>78</sup>
- Aircraft piracy;<sup>79</sup>
- Unlawful throwing, placing, or discharging of a destructive device or bomb;<sup>80</sup> and
- Any other felony which involves the use or threat of physical force or violence against any individual.

### **III. Effect of Proposed Changes:**

The bill provides that the act may be cited as the “Kaia Rolle Act.”

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<sup>63</sup> See s. 985.802, F.S.

<sup>64</sup> *Id.*

<sup>65</sup> ICJ, *ICJ Rules, Interstate Commission for Juveniles, Serving Juveniles While Protecting Communities*, p. 6, (April 23, 2020), available at [https://www.juvenilecompact.org/sites/default/files/ICJ%20Rules\\_Final.pdf](https://www.juvenilecompact.org/sites/default/files/ICJ%20Rules_Final.pdf) (last visited February 9, 2021).

<sup>66</sup> Section 876.32, F.S.

<sup>67</sup> Section 782.04, F.S.

<sup>68</sup> Section 782.07(1), F.S.

<sup>69</sup> Section 794.011, F.S.

<sup>70</sup> Section 812.133, F.S.

<sup>71</sup> Section 812.135, F.S.

<sup>72</sup> Section 812.13, F.S.

<sup>73</sup> Section 810.02, F.S.

<sup>74</sup> Section 806.01, F.S.

<sup>75</sup> Section 787.01, F.S.

<sup>76</sup> Section 784.021, F.S.

<sup>77</sup> Section 784.045, F.S.

<sup>78</sup> Section 784.048, F.S.

<sup>79</sup> Section 860.016, F.S.

<sup>80</sup> Section 790.1615, F.S.

The bill creates s. 985.031, F.S., prohibiting a child who is under the age of 7 from being arrested, charged, or adjudicated delinquent except if the child commits a forcible felony as defined in s. 776.08, F.S.

The bill provides an effective date of July 1, 2021.

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

##### **A. Municipality/County Mandates Restrictions:**

The bill prohibits a child under the age of 7 from being arrested, charged with a violation of the law, or adjudicated delinquent except in specified circumstances which may result in indeterminate reduction of local fund expenditures for costs relating to criminal prosecution and confinement if such child would have otherwise been detained or charged with a crime. However, these provisions relate to the defense, prosecution, or punishment of criminal offenses, and criminal law and are therefore exempt from the requirements of Art. VII, s. 18(d) of the Florida Constitution, relating to unfunded mandates.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

##### **D. State Tax or Fee Increases:**

None.

##### **E. Other Constitutional Issues:**

None identified.

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

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

None.

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

None.

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

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

The Florida Department of Law Enforcement (FDLE) will be required to amend basic recruit and advanced training course curriculums in relation to the new custody and detention laws which may be incorporated in annual training review courses.<sup>81</sup>

The Justice Administrative Commission (JAC) reports that the bill will have no policy, workload, or fiscal impacts on the agency.<sup>82</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 985.031 of the Florida Statutes.

**IX. 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 2, 2021:**

The committee substitute provides an:

- Age limitation related to arresting, charging, or adjudicating delinquent a child; and
- Exception for if the child is alleged to have committed a specified offense.

- B. Amendments:

None.

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

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<sup>81</sup> The FDLE, *Agency Analysis for 626*, p. 5, January 20, 2021 (on file with the Senate Committee on Children, Families, and Elder Affairs).

<sup>82</sup> The JAC, *Memorandum No. 13-21, Exec*, p.1, February 8, 2021 (on file with the Senate Committee on Children, Families, and Elder Affairs).



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LEGISLATIVE ACTION

| Senate     | . | House |
|------------|---|-------|
| Comm: RCS  | . |       |
| 03/02/2021 | . |       |
|            | . |       |
|            | . |       |
|            | . |       |

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

**Senate Amendment**

Delete lines 51 - 52  
and insert:

2.a. All program personnel must undergo a level 2 background screening in accordance with chapter 435. Fees for state and federal fingerprint processing and retention shall be borne by the applicant. The state cost for fingerprint processing shall be as provided in s. 943.053(3)(e) for records provided to persons or entities other than those specified as



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exceptions therein.

b. Fingerprints submitted to the Department of Law Enforcement pursuant to this paragraph shall be retained as provided by s. 435.12 and, when the Department of Law Enforcement begins participation in the program, enrolled in the Federal Bureau of Investigation's national retained fingerprint arrest notification program, as provided in s. 943.05(4). Any arrest record identified shall be reported to the department.

By Senator Bracy

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A bill to be entitled

An act relating to batterers' intervention programs; amending s. 741.325, F.S.; requiring the Department of Children and Families to certify and monitor certain batterers' intervention programs; providing that the department's certification and monitoring activities will be funded by specified fees; requiring batterers' intervention programs to satisfy specified requirements for certification by the department; requiring programs to have certain safety measures in place; requiring programs to employ certain measures to hold batterers accountable; providing requirements for program orientation and weekly group sessions; revising program content requirements; specifying elements and techniques programs may not include; requiring the department to annually review programs for compliance with certification requirements; authorizing the department to reject or suspend certification of a program for failure to comply with the requirements; requiring the department to annually provide a list of certified programs and to immediately notify the courts if it suspends a program's certification; requiring the department to adopt specified rules; amending ss. 741.281, 741.2902, 741.30, 741.31, and 948.038, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

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Section 1. Section 741.325, Florida Statutes, is amended to read:

741.325 Requirements for batterers' intervention programs.—

(1) The Department of Children and Families shall certify and monitor batterers' intervention programs that provide direct intervention services to those persons who are adjudged to have committed an act of domestic violence as defined in s. 741.28, those against whom an injunction for protection against domestic violence is entered, those referred by the department, and those who volunteer to attend such programs. The certification and monitoring shall be funded by certification application and user fees as provided in s. 741.327.

(2) To be certified, a batterers' intervention program must meet all of the following requirements:

(a) The primary purpose of the program must ~~shall~~ be victim safety and the safety of children, if present. Safety measures must include, but need not be limited to, all of the following:

1. Coordination with the criminal justice system, domestic violence centers, social service agencies, and state and local government agencies.

2. Level 2 background screenings of program personnel in accordance with chapter 435.

3. A prohibition on the employment of perpetrators of domestic violence as program personnel.

4. Requirements and procedures for victim notification when a batterer is enrolled or discharged from the program.

5. Extensive recordkeeping requirements.

6. Written operating policies and manuals.

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59       7. Rigorous facilitator credentialing procedures and  
60 continuing education requirements.

61       (b) The batterer shall be held accountable for acts of  
62 domestic violence. The program must include measures that do all  
63 of the following:

64       1. Assign to the batterers responsibility for their acts of  
65 domestic violence.

66       2. Provide a strategy to assist the batterers in taking  
67 responsibility for their acts of domestic violence.

68       3. Improve the batterers' ability to articulate and  
69 identify emotions.

70       4. Encourage the batterers to develop critical thinking  
71 skills and healthier behavior patterns.

72       5. Teach the batterers the effects domestic violence has on  
73 children.

74       6. Improve the batterers' negotiation and conflict  
75 resolution skills.

76       7. Teach the batterers communication skills and how to  
77 listen to others with empathy.

78       8. Challenge the batterers' gender role expectations.

79       9. Teach the batterers about the relationship between  
80 substance abuse and domestic violence.

81       10. Support the principle that domestic violence is  
82 primarily a learned behavior and is not a natural response to  
83 provocation.

84       11. Teach the batterers how distorted thinking can affect a  
85 person's emotions or behavior.

86       (c) The program must ~~shall~~ be at least 29 weeks in length  
87 and include at least 24 weekly group sessions, plus appropriate

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intake, assessment, and orientation programming.

1. Orientation sessions must be at least 90 minutes in length, with breaks at appropriate intervals, and must include all of the following programming:

a. The definition of domestic violence.

b. Statistics related to domestic violence.

c. An explanation of the cycle of abuse and introduction of the power and control wheel.

d. An overview of the program's rules and expectations.

e. An introduction to the program's content, which shall include the dynamics of power and control in domestic violence; the effects of domestic violence on the victim, children, and others; and the connection between gender roles, socialization, and the nature of domestic violence.

2. Each weekly group session must be at least 90 minutes in length, with breaks at appropriate intervals. A group session must consist of at least 3 participants and no more than 24 participants with 2 facilitators, or no more than 15 participants with 1 facilitator. A program may accept new participants into the weekly group sessions on an ongoing basis. However, programs must ensure that all participants of a group session are of the same gender.

3. If a participant in the group session is not fluent in the English language, at least one facilitator must be able to translate or effectively communicate in the participant's native language. A program may not allow a person who is not affiliated with the program to serve as an interpreter for a participant during a group session.

(d) The program content must ~~shall~~ be based on an

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117 intervention ~~a psychoeducational~~ model that recognizes the use  
118 ~~addresses tactics~~ of power and control tactics by one person to  
119 inflict emotional or physical abuse on ~~over~~ another. The program  
120 content must be submitted to the department at the time of  
121 application for certification for review of compliance with  
122 program standards under this section. The program content may  
123 not include any of the following:

124 1. Couples, marriage, or family therapy or any technique  
125 that requires victim participation.

126 2. Anger management techniques that identify anger as the  
127 cause of domestic violence.

128 3. Identification of poor impulse control as a primary  
129 cause of domestic violence.

130 4. Identification of psychopathology on the part of the  
131 perpetrator or the victim as a primary cause of domestic  
132 violence.

133 5. Instruction on fair fighting techniques.

134 6. Any other content the department deems inappropriate.

135 (e) The program must ~~shall~~ be funded by user fees paid by  
136 the batterers who attend the program, which allows them to take  
137 responsibility for their acts of violence. An exception must  
138 ~~shall~~ be made for local, state, or federal programs that fund  
139 batterers' intervention programs in whole or in part. The  
140 program may not admit a batterer into the program until he or  
141 she has paid the user fee. However, the program may not refuse  
142 to admit a batterer into the program if the batterer has been  
143 deemed indigent by the court and is not able to pay the user  
144 fee.

145 (3)-(2) The requirements of this section apply only to

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146 programs that address the perpetration of violence between  
147 intimate partners, spouses, ex-spouses, or those who share a  
148 child in common or who are cohabitants in intimate relationships  
149 for the purpose of exercising power and control by one over the  
150 other. It will endanger victims if courts and other referral  
151 agencies refer family and household members who are not  
152 perpetrators of the type of domestic violence encompassed by  
153 these requirements. Accordingly, the court and others who make  
154 referrals should refer perpetrators only to programming that  
155 appropriately addresses the violence committed.

156 (4) The department shall annually review certified  
157 batterers' intervention programs to ensure that they continue to  
158 meet the requirements of this section. The department may reject  
159 or suspend certification of a program if it fails to meet the  
160 requirements of this section.

161 (5) The department shall annually provide to the courts a  
162 list of certified batterers' intervention programs and  
163 immediately notify the courts of any suspension of a certified  
164 batterers' program.

165 (6) The department shall adopt rules to implement this  
166 section, including, at a minimum, all of the following:

167 (a) The programs' purpose, policies, and standards of care.

168 (b) The intervention approaches considered appropriate for  
169 use by programs.

170 (c) Policies for conflicts of interest and ethical  
171 standards.

172 (d) Curriculum and assessments for programs.

173 (e) The qualifications of providers and credentials for  
174 facilitators, supervisors, and trainees of programs.

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175       (f) The standards for program operations, including  
176 administrative, personnel, and fiscal operations.

177       (g) Record maintenance and retention policies for victim  
178 and batterer records.

179       (h) Procedures for educating, evaluating, and referring  
180 program participants for treatment.

181       Section 2. Section 741.281, Florida Statutes, is amended to  
182 read:

183       741.281 Court to order batterers' intervention program  
184 attendance.—If a person is found guilty of, has adjudication  
185 withheld on, or pleads nolo contendere to a crime of domestic  
186 violence, as defined in s. 741.28, that person shall be ordered  
187 by the court to a minimum term of 1 year's probation and the  
188 court shall order that the defendant attend and complete a  
189 batterers' intervention program certified under s. 741.325 as a  
190 condition of probation. The court must impose the condition of  
191 the batterers' intervention program for a defendant under this  
192 section, but the court, in its discretion, may determine not to  
193 impose the condition if it states on the record why a batterers'  
194 intervention program might be inappropriate. The court must  
195 impose the condition of the batterers' intervention program for  
196 a defendant placed on probation unless the court determines that  
197 the person does not qualify for the batterers' intervention  
198 program pursuant to s. 741.325. The imposition of probation  
199 under this section does not preclude the court from imposing any  
200 sentence of imprisonment authorized by s. 775.082.

201       Section 3. Paragraph (g) of subsection (2) of section  
202 741.2902, Florida Statutes, is amended to read:

203       741.2902 Domestic violence; legislative intent with respect

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to judiciary's role.—

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

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

Section 4. Subsection (3) and paragraphs (a) and (e) of subsection (6) of section 741.30, Florida Statutes, are amended to read:

741.30 Domestic violence; injunction; powers and duties of court and clerk; petition; notice and hearing; temporary injunction; issuance of injunction; statewide verification system; enforcement; public records exemption.—

(3)(a) The sworn petition must ~~shall~~ allege the existence of such domestic violence and must ~~shall~~ include the specific facts and circumstances upon the basis of which relief is sought.

(b) The sworn petition shall be in substantially the following form:

PETITION FOR  
INJUNCTION FOR PROTECTION  
AGAINST DOMESTIC VIOLENCE

Before me, the undersigned authority, personally appeared Petitioner ...(Name)..., who has been sworn and says that the following statements are true:

(a) Petitioner resides at: ...(address)...

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(Petitioner may furnish address to the court in a separate confidential filing if, for safety reasons, the petitioner requires the location of the current residence to be confidential.)

(b) Respondent resides at: ...(last known address)...

(c) Respondent's last known place of employment: ...(name of business and address)...

(d) Physical description of respondent:....

Race....

Sex....

Date of birth....

Height....

Weight....

Eye color....

Hair color....

Distinguishing marks or scars....

(e) Aliases of respondent:....

(f) Respondent is the spouse or former spouse of the petitioner or is any other person related by blood or marriage to the petitioner or is any other person who is or was residing within a single dwelling unit with the petitioner, as if a family, or is a person with whom the petitioner has a child in common, regardless of whether the petitioner and respondent are or were married or residing together, as if a family.

(g) The following describes any other cause of action currently pending between the petitioner and respondent:.....  
.....

The petitioner should also describe any previous or pending attempts by the petitioner to obtain an injunction for

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protection against domestic violence in this or any other  
circuit, and the results of that attempt:.....  
.....

Case numbers should be included if available.

(h) Petitioner is either a victim of domestic violence or  
has reasonable cause to believe he or she is in imminent danger  
of becoming a victim of domestic violence because respondent  
has: (mark all sections that apply and describe in the spaces  
below the incidents of violence or threats of violence,  
specifying when and where they occurred, including, but not  
limited to, locations such as a home, school, place of  
employment, or visitation exchange)

....committed or threatened to commit domestic violence  
defined in s. 741.28, Florida Statutes, as any assault,  
aggravated assault, battery, aggravated battery, sexual assault,  
sexual battery, stalking, aggravated stalking, kidnapping, false  
imprisonment, or any criminal offense resulting in physical  
injury or death of one family or household member by another.  
With the exception of persons who are parents of a child in  
common, the family or household members must be currently  
residing or have in the past resided together in the same single  
dwelling unit.

....previously threatened, harassed, stalked, or physically  
abused the petitioner.

....attempted to harm the petitioner or family members or  
individuals closely associated with the petitioner.

....threatened to conceal, kidnap, or harm the petitioner's  
child or children.

....intentionally injured or killed a family pet.

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....used, or has threatened to use, against the petitioner  
any weapons such as guns or knives.

....physically restrained the petitioner from leaving the  
home or calling law enforcement.

....a criminal history involving violence or the threat of  
violence (if known).

....another order of protection issued against him or her  
previously or from another jurisdiction (if known).

....destroyed personal property, including, but not limited  
to, telephones or other communication equipment, clothing, or  
other items belonging to the petitioner.

....engaged in any other behavior or conduct that leads the  
petitioner to have reasonable cause to believe he or she is in  
imminent danger of becoming a victim of domestic violence.

(i) Petitioner alleges the following additional specific  
facts: (mark appropriate sections)

....A minor child or minor children reside with the  
petitioner whose names and ages are as follows:

.....

....Petitioner needs the exclusive use and possession of  
the dwelling that the parties share.

....Petitioner is unable to obtain safe alternative housing  
because:

....Petitioner genuinely fears that respondent imminently  
will abuse, remove, or hide the minor child or children from  
petitioner because:

(j) Petitioner genuinely fears imminent domestic violence

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by respondent.

(k) Petitioner seeks an injunction: (mark appropriate section or sections)

....Immediately restraining the respondent from committing any acts of domestic violence.

....Restraining the respondent from committing any acts of domestic violence.

....Awarding to the petitioner the temporary exclusive use and possession of the dwelling that the parties share or excluding the respondent from the residence of the petitioner.

....Providing a temporary parenting plan, including a temporary time-sharing schedule, with regard to the minor child or children of the parties which might involve prohibiting or limiting time-sharing or requiring that it be supervised by a third party.

....Establishing temporary support for the minor child or children or the petitioner.

....Directing the respondent to participate in a batterers' intervention program certified under s. 741.325, Florida Statutes, or other treatment pursuant to s. 39.901, Florida Statutes.

....Providing any terms the court deems necessary for the protection of a victim of domestic violence, or any minor children of the victim, including any injunctions or directives to law enforcement agencies.

(c)

Every petition for an injunction against domestic violence must ~~shall~~ contain, directly above the signature line, a statement in all capital letters and bold type not smaller than

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the surrounding text, as follows:

I HAVE READ EVERY STATEMENT MADE IN THIS PETITION AND  
EACH STATEMENT IS TRUE AND CORRECT. I UNDERSTAND THAT  
THE STATEMENTS MADE IN THIS PETITION ARE BEING MADE  
UNDER PENALTY OF PERJURY, PUNISHABLE AS PROVIDED IN  
SECTION 837.02, FLORIDA STATUTES.

...(initials)...

(d) If the sworn petition seeks to determine a parenting  
plan and time-sharing schedule with regard to the minor child or  
children of the parties, the sworn petition must ~~shall~~ be  
accompanied by or must ~~shall~~ incorporate the allegations  
required by s. 61.522 of the Uniform Child Custody Jurisdiction  
and Enforcement Act.

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

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

2. Awarding to the petitioner the exclusive use and  
possession of the dwelling that the parties share or excluding  
the respondent from the residence of the petitioner.

3. On the same basis as provided in chapter 61, providing  
the petitioner with 100 percent of the time-sharing in a  
temporary parenting plan that remains in effect until the order

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378 expires or an order is entered by a court of competent  
379 jurisdiction in a pending or subsequent civil action or  
380 proceeding affecting the placement of, access to, parental time  
381 with, adoption of, or parental rights and responsibilities for  
382 the minor child.

383 4. On the same basis as provided in chapter 61,  
384 establishing temporary support for a minor child or children or  
385 the petitioner. An order of temporary support remains in effect  
386 until the order expires or an order is entered by a court of  
387 competent jurisdiction in a pending or subsequent civil action  
388 or proceeding affecting child support.

389 5. Ordering the respondent to participate in treatment,  
390 intervention, or counseling services to be paid for by the  
391 respondent. When the court orders the respondent to participate  
392 in a batterers' intervention program certified under s. 741.325,  
393 the court, or any entity designated by the court, must provide  
394 the respondent with a list of batterers' intervention programs  
395 from which the respondent must choose a program in which to  
396 participate.

397 6. Referring a petitioner to a certified domestic violence  
398 center. The court must provide the petitioner with a list of  
399 certified domestic violence centers in the circuit which the  
400 petitioner may contact.

401 7. Awarding to the petitioner the exclusive care,  
402 possession, or control of an animal that is owned, possessed,  
403 harbored, kept, or held by the petitioner, the respondent, or a  
404 minor child residing in the residence or household of the  
405 petitioner or respondent. The court may order the respondent to  
406 have no contact with the animal and prohibit the respondent from

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407 taking, transferring, encumbering, concealing, harming, or  
408 otherwise disposing of the animal. This subparagraph does not  
409 apply to an animal owned primarily for a bona fide agricultural  
410 purpose, as defined under s. 193.461, or to a service animal, as  
411 defined under s. 413.08, if the respondent is the service  
412 animal's handler.

413 8. Ordering such other relief as the court deems necessary  
414 for the protection of a victim of domestic violence, including  
415 injunctions or directives to law enforcement agencies, as  
416 provided in this section.

417 (e) An injunction for protection against domestic violence  
418 entered under this section, on its face, may order that the  
419 respondent attend a batterers' intervention program certified  
420 under s. 741.325 as a condition of the injunction. Unless the  
421 court makes written factual findings in its judgment or order  
422 which are based on substantial evidence, stating why batterers'  
423 intervention programs would be inappropriate, the court shall  
424 order the respondent to attend a batterers' intervention program  
425 if:

426 1. It finds that the respondent willfully violated the ex  
427 parte injunction;

428 2. The respondent, in this state or any other state, has  
429 been convicted of, had adjudication withheld on, or pled nolo  
430 contendere to a crime involving violence or a threat of  
431 violence; or

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

435 Section 5. Subsection (5) of section 741.31, Florida

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Statutes, is amended to read:

741.31 Violation of an injunction for protection against domestic violence.—

(5) Whether or not there is a criminal prosecution under subsection (4), the court shall order the respondent to attend a batterers' intervention program certified under s. 741.325 if it finds a willful violation of a domestic violence injunction, unless the court makes written factual findings in its judgment or order which are based on substantial evidence, stating why a batterers' intervention program would be inappropriate.

Section 6. Section 948.038, Florida Statutes, is amended to read:

948.038 Batterers' intervention program as a condition of probation, community control, or other court-ordered community supervision.—As a condition of probation, community control, or any other court-ordered community supervision, the court shall order a person convicted of an offense of domestic violence, as defined in s. 741.28, to attend and successfully complete a batterers' intervention program certified under s. 741.325 unless the court determines that the person does not qualify for the batterers' intervention program pursuant to s. 741.325. The offender must pay the cost of attending the program.

Section 7. This act shall take effect July 1, 2021.

**COMMITTEE:** Children, Families, and Elder Affairs  
**ITEM:** SB 680  
**FINAL ACTION:** Favorable with Committee Substitute  
**MEETING DATE:** Tuesday, March 2, 2021  
**TIME:** 4:00—6:00 p.m.  
**PLACE:** 37 Senate Building

| FINAL VOTE |     |                       | 3/02/2021<br>Amendment 186592 |     |     |     |     |     |
|------------|-----|-----------------------|-------------------------------|-----|-----|-----|-----|-----|
| Yea        | Nay | SENATORS              | Yea                           | Nay | Yea | Nay | Yea | Nay |
| X          |     | Brodeur               |                               |     |     |     |     |     |
| X          |     | Garcia                |                               |     |     |     |     |     |
| X          |     | Harrell               |                               |     |     |     |     |     |
| X          |     | Rouson                |                               |     |     |     |     |     |
| X          |     | Torres                |                               |     |     |     |     |     |
| X          |     | Wright                |                               |     |     |     |     |     |
| X          |     | Albritton, VICE CHAIR |                               |     |     |     |     |     |
| X          |     | Book, CHAIR           |                               |     |     |     |     |     |
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| 8          | 0   |                       | RCS                           | -   |     |     |     |     |
| Yea        | Nay | TOTALS                | Yea                           | Nay | Yea | Nay | Yea | Nay |

CODES: FAV=Favorable  
UNF=Unfavorable  
-R=Reconsidered

RCS=Replaced by Committee Substitute  
RE=Replaced by Engrossed Amendment  
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed  
VA=Vote After Roll Call  
VC=Vote Change After Roll Call

WD=Withdrawn  
OO=Out of Order  
AV=Abstain from Voting

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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

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BILL: CS/SB 680

INTRODUCER: Children, Families, and Elder Affairs Committee and Senators Bracy and Stewart

SUBJECT: Batterers' Intervention Programs

DATE: March 3, 2021

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

|    | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION        |
|----|---------|----------------|-----------|---------------|
| 1. | Preston | Cox            | CF        | <b>Fav/CS</b> |
| 2. | _____   | _____          | AHS       | _____         |
| 3. | _____   | _____          | AP        | _____         |

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

The bill requires the Department of Children and Families (DCF) to certify and monitor batterers' intervention programs that provide direct intervention services to specified individuals. The bill also provides requirements that must be met in order for a batterer's intervention program to be certified by the DCF.

The bill requires that batterers be held accountable for their acts of domestic violence and specifies measures that programs must have in order to accomplish that accountability. Programs are required to be 29 weeks in length and must include at least 24 weekly group sessions:

- Orientation sessions must be at least 90 minutes in length and must include all specified programming;
- Each weekly session must be at least 90 minutes in length and must include a specified minimum and maximum number of participants and facilitators.
- All participants in a group session must be the same gender.
- If a participant in the group is not fluent in the English language, at least one facilitator must be able to translate or effectively communicate in the participant's native language. That facilitator must be affiliated with the program.

The bill requires the program to be based on an intervention model that recognizes the use of power and control tactics by one person to inflict emotional or physical abuse on another and specifies issues that may not be included in the program content.

The bill requires the program to be funded by user fees paid by the batterers who attend the program and while a batterer may not be admitted to the program until the fee has been paid, a batterer who has been deemed indigent by the court and is unable to pay the user fee may not be refused admittance.

The bill requires the DCF to annually review the intervention programs and the DCF may reject or suspend the certification of a program that does not meet the required qualifications. The DCF must notify the court of any program suspensions and must adopt rules to implement the requirements of the bill.

The DCF provides that the bill does not result in expenditures to state or local government. See Section V. Fiscal Impact Statement.

The bill has an effective date of July 1, 2021.

## **II. Present Situation:**

### **Domestic Violence**

The National Coalition Against Domestic Violence defines domestic violence as the willful intimidation, physical assault, battery, sexual assault, and/or other abusive behavior as part of a systematic pattern of power and control perpetrated by one intimate partner against another. It includes physical violence, sexual violence, threats, economic, and emotional/psychological abuse.<sup>1</sup>

Nationally, more than 10 million adults experience domestic violence annually. Further, it is estimated that 25 percent of women and 10 percent of men experience sexual violence, physical violence or stalking by an intimate partner during their lifetime.<sup>2</sup>

The Centers for Disease Control and Prevention (CDC) studies various types of violence including domestic violence, also known as intimate partner violence. The CDC states that domestic violence is a significant public health issue that has many individual and societal costs, including many survivors having experienced some form of physical injury as a result. Data from U.S. crime reports suggest that about 1 in 5 homicide victims are killed by an intimate partner and that over half of female homicide victims in the U.S. are killed by a current or former male intimate partner.<sup>3</sup>

### **Florida Law and Statistics**

Florida law defines the term “domestic violence” as any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false

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<sup>1</sup> National Coalition Against Domestic Violence, *Domestic Violence*, available at [https://assets.speakcdn.com/assets/2497/domestic\\_violence-2020080709350855.pdf?1596828650457](https://assets.speakcdn.com/assets/2497/domestic_violence-2020080709350855.pdf?1596828650457) (last visited February 25, 2021).

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

<sup>3</sup> The CDC, *Preventing Intimate Partner Violence*, available at <https://www.cdc.gov/violenceprevention/intimatepartnerviolence/fastfact.html> (last visited February 26, 2021).

imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member.<sup>4</sup> The term “family or household member” is defined to mean spouses, former spouses, persons related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who are parents of a child in common regardless of whether they have been married. With the exception of persons who have a child in common, the family or household members must be currently residing or have in the past resided together in the same single dwelling unit.<sup>5</sup>

In 2019, 105,298 crimes of domestic violence were reported to Florida law enforcement agencies resulting in 66,069 arrests.<sup>6</sup> Many more survivors of domestic violence do not report their abusers to the police or access services at domestic violence services due to reasons such as shame, fear, or being prevented from doing so by their abusers. For this reason, it is difficult to quantify the true extent of abuse in the United States and in Florida.<sup>7</sup>

### ***Domestic Violence Injunctions***

Currently, Florida law creates a cause of action for an injunction for protection against domestic violence. Any family or household member, who is either the victim of domestic violence as defined in s. 741.28, F.S., or has reasonable cause to believe he or she is in imminent danger of becoming the victim of any act of domestic violence, has standing in the circuit court to file a sworn petition for an injunction for protection against domestic violence.<sup>8</sup>

Upon notice and hearing, when it appears to the court that the petitioner is either the victim of domestic violence or has reasonable cause to believe he or she is in imminent danger of becoming a victim of domestic violence, the court may grant such relief as the court deems proper, including an injunction that orders the respondent to participate in treatment, intervention, or counseling services to be paid for by the respondent. When the court orders the respondent to participate in a batterers’ intervention program (BIP), the court, or any entity designated by the court, must provide the respondent with a list of BIPs from which the respondent must choose a program in which to participate.<sup>9</sup>

If there is a violation of the injunction for protection against domestic violence when there has not been an arrest, the petitioner may contact the clerk of the circuit court of the county in which the violation is alleged to have occurred. The clerk shall either assist the petitioner in the preparation of an affidavit in support of the violation or direct the petitioner to the office

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<sup>4</sup> Section 741.28(2), F.S.

<sup>5</sup> Section 741.28(3), F.S.

<sup>6</sup> Florida Department of Children and Families, *Domestic Violence Statistics*, available at <https://www.myflfamilies.com/service-programs/domestic-violence/statistics.shtml#:~:text=In%202019%2C%20105%2C298%20crimes%20of,domestic%20violence%20and%20their%20children> (last visited February 25, 2021).

<sup>7</sup> *Id.* During fiscal year 2019-20, Florida’s certified domestic violence centers provided 563,721 nights of emergency shelter to 13,250 survivors of domestic violence and their children. Advocates created 153,757 tailored safety plans, provided a total of 233,602 hours of advocacy and counseling services, and received 73,817 domestic violence hotline calls from individual seeking emergency services, information, and safety planning assistance.

<sup>8</sup> Section 741.30(1)(a) and (e), F.S.

<sup>9</sup> Section 741.30(6)(a)5., F.S.

operated by the court within the circuit that has been designated by the chief judge of that circuit as the central intake point for injunction violations and where the petitioner can receive assistance in the preparation of the affidavit in support of the violation.<sup>10</sup>

Whether or not there is a criminal prosecution for violation of an injunction, the court is required to order the respondent to attend a BIP if it finds a willful violation of a domestic violence injunction, unless the court makes written factual findings in its judgment or order which are based on substantial evidence, stating why a BIP would be inappropriate.<sup>11</sup>

### ***Effects of Domestic Violence on Children***

Children are often the hidden or silent victims of domestic violence, and some are directly injured, while others are frightened witnesses.<sup>12</sup> Children with domestic violence exposure are more likely to have also experienced emotional abuse, neglect, and physical abuse. The Centers for Disease Control and Prevention have reported that in homes where violence between partners occurs, there is a 45% to 60% chance of co-occurring child abuse, a rate 15 times higher than the average. Even when they are not physically attacked, children witness 68% to 80% of domestic assaults.<sup>13</sup>

In Florida, in 2020, 23.30 percent of alleged maltreatments reported to the child abuse hotline were for household violence that threatens a child and intimate partner violence that threatens a child. The percentage of those reports that were verified was 13.61 percent.<sup>14</sup>

The exposure of children to domestic violence is addressed in a number of Florida Statutes:

- **Section 39.01(35), F.S.**, defines the term “harm” as including, in part, to:
  - Engage in violent behavior that demonstrates a wanton disregard for the presence of a child and could reasonably result in serious injury to the child.
  - Negligently fail to protect a child in his or her care from inflicted physical, mental, or sexual injury caused by the acts of another.
- **Section 39.806(1)(f), F.S.**, provides that grounds for termination of parental rights may be established if the parent or parents engaged in egregious conduct or had the opportunity and capability to prevent and knowingly failed to prevent egregious conduct that threatens the life, safety, or physical, mental, or emotional health of the child or the child’s sibling. Proof of a nexus between egregious conduct to a child and the potential harm to the child’s sibling is not required.
- **Section 921.0024(1)(b), F.S.**, relating to the criminal punishment code worksheet computation, provides certain offenses that are defined as an act of domestic violence in the

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<sup>10</sup> Section 741.31(1), F.S.

<sup>11</sup> Section 741.31(5), F.S.

<sup>12</sup> Psychology Today, *Domestic Violence, Alarming Effects of Children's Exposure to Domestic Violence*, 2019, available at: <https://www.psychologytoday.com/us/blog/progress-notes/201902/alarming-effects-childrens-exposure-domestic-violence>, (last visited February 25, 2021).

<sup>13</sup> *Id.*

<sup>14</sup> Florida Department of Children and Families, *Child Welfare Dashboard, Alleged Maltreatments*, available at <https://www.myflfamilies.com/programs/childwelfare/dashboard/alleged-maltreatments.shtml> (last visited February 25, 2021).

presence of a child who is a family or household member is an aggravator that results in the subtotal sentence points being multiplied by 1.5.<sup>15, 16</sup>

### **Batterers' Intervention Programs**

Batterers' Intervention Programs (BIPs) are programs that batterers attend either voluntarily or under court order to educate and rehabilitate the batterer. The goal of BIPs is to change offender thinking and behavior with the result that offenders are held accountable and victim safety is enhanced and to decrease the likelihood of further violence. An important feature of BIPs is that the programs are designed to first promote survivor safety, which is achieved through accountability. All offender participants must sign a waiver of confidentiality to permit disclosure of participation to survivors, probation, and the courts, as needed. This assists the BIPs' accountability to survivors by ensuring that survivors have information needed to make informed decisions through sharing information with courts and probation.<sup>17</sup>

The first BIPs in the United States were established in the 1970s in response to hotline calls from victims and offenders. Around the same time that legal systems began criminalizing domestic violence and mandating prosecution protocols, judges began requiring that offenders attend BIPs. The earliest programs often modeled themselves on substance abuse or mental health programs, with some taking the form of couples counseling. However, BIPs are not the same as marriage or couples counseling because those programs presume equality in the relationship and the presence of domestic violence negates this presumption. Moreover, couples counseling in situations of domestic violence is not a recommended best practices and can place victims at a continued risk of harm.<sup>18</sup>

Later, more effective BIPs focused on altering batterers' beliefs surrounding power and control over their intimate partner. The Duluth Model, developed in the 1980s, is a feminist, psycho-educational approach to ending domestic violence. This is achieved through "identifying behaviors that men use to create power and control and presenting options other than dominance and control."<sup>19</sup>

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<sup>15</sup> Specifically, the offender must be convicted of the primary offense and the primary offense is a crime of domestic violence, as defined in s. 741.28, which was committed in the presence of a child under 16 years of age who is a family or household member as defined in s. 741.28(3), F.S., with the victim or perpetrator.

<sup>16</sup> The Criminal Punishment Code (Code) is Florida's primary sentencing policy. Noncapital felonies sentenced under the Code receive an offense severity level ranking (Levels 1-10). Offenses are either ranked in the offense severity level ranking chart in s. 921.0022, F.S., or are ranked by default based on a ranking assigned to the felony degree of the offense as provided in s. 921.0023, F.S. Points are assigned and accrue based upon the level ranking assigned to the primary offense, additional offenses, and prior offenses. Sentence points escalate as the level escalates. Points may also be added or multiplied for other factors such as victim injury or the commission of certain offenses. Absent mitigation, the permissible sentencing range under the Code is generally the lowest permissible sentence scored up to and including the maximum penalty provided under s. 775.082, F.S. See ss. 921.002-921.0027, F.S.

<sup>17</sup> The Advocates for Human Rights, Stop Violence Against Women, *Batterers' Intervention Programs*, March 2019, available at [https://www.stopvaw.org/batterers\\_intervention\\_programs](https://www.stopvaw.org/batterers_intervention_programs) (last visited February 25, 2021).

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

<sup>19</sup> *Id.*

### ***Florida Batterers' Intervention Programs***

BIPs were first recognized in statute in 1995 and the responsibility for certifying and monitoring the programs was placed in the Department of Corrections (DOC) Office for Certification and Monitoring of Batterers' Intervention Programs (OCMBIP).<sup>20</sup>

In 1995, the link between domestic violence, the detrimental effects on children and BIPs as part of the solution was reflected in legislative findings:

- The Legislature finds that the incidence of domestic violence in this state is disturbingly high and that, despite the efforts of many to curb this violence, one person dies at the hands of a spouse, ex-spouse, or cohabitant approximately every 3 days. Further, a child who witnesses the perpetration of this violence becomes a victim as he or she hears or sees it occurring. This child is at high risk of also being the victim of physical abuse by the parent who is perpetrating the violence and, to a lesser extent, by the parent who is the victim. These children are also at a high risk of perpetrating violent crimes as juveniles and, later, becoming perpetrators of the same violence that they witnessed as children. The Legislature finds that there should be standardized programming available to the justice system to protect victims and their children and to hold the perpetrators of domestic violence accountable for their acts. Finally, the Legislature recognizes that in order for batterers' intervention programs to be successful in protecting victims and their children, all participants in the justice system as well as social service agencies and local and state governments must coordinate their efforts at the community level.<sup>21</sup>

In 2001, the OCMBIP, along with all associated resources, powers, and responsibilities, was transferred from the DOC to the DCF. The fees assessed and collected under this section were required to be deposited in the Executive Office of the Governor's Domestic Violence Trust Fund and directed to the DCF to fund the cost of certifying and monitoring batterers' intervention programs.<sup>22</sup>

At that time a \$300.00 fee was collected from batterers' intervention programs applying for state certification and a \$100.00 fee from individuals applying for state certification as an assessor under s. 741.327, F.S. (2001). In addition, court ordered perpetrators of domestic violence were required to pay a one-time \$30.00 participant's fee which is collected by the certified programs and forwarded to the OCMBIP on a monthly basis.<sup>23</sup>

In 2012, the duties and functions of the DCF were revised relating to the domestic violence program. Those changes included, in part, the elimination of the certification of batterers' intervention programs as well as the authority for the DCF to collect fees associated with the certification program.<sup>24</sup> Specifically, with respect to the batterers' intervention programs:

- Legislative intent relating to certifying batterers' intervention programs was amended;

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<sup>20</sup> Chapter 95-195, L.O.F.

<sup>21</sup> *Id.*

<sup>22</sup> Chapter 2001-183, L.O.F.

<sup>23</sup> HB 1729, Bill Analysis, March 22, 2001, available at:

[https://www.flsenate.gov/Session/Bill/2001/1729/Analyses/20011729HFRC\\_2001h1729.frc.pdf](https://www.flsenate.gov/Session/Bill/2001/1729/Analyses/20011729HFRC_2001h1729.frc.pdf) (last visited February 24, 2021).

<sup>24</sup> Chapter 2012-147, L.O.F.

- The role of the DCF related to the certification of these programs was eliminated;
- Statutory references to certified batterers' intervention programs were eliminated;
- The requirement that batterers' intervention programs meet the requirements currently in law was unchanged, but the authority for the DCF to promulgate rules to establish these requirements was removed; and
- References to batterers' intervention programs in statute were retained but references to the programs being certified by the DCF were removed.<sup>25</sup>

The FY 2011-12 General Appropriations Act eliminated funding for the DCF's BIP certification staff, and as a result, the 2012 Legislature repealed s. 741.327, F.S. The DCF no longer certified and monitored BIPs and all administrative rules governing BIPs were repealed. No state agency has certified and monitored BIPs since 2012. Section 741.325, F.S., has remained in effect, and in some jurisdictions, courts require that BIPs comply with the statute's requirements if the BIP wants to receive perpetrator referrals from the court.<sup>26</sup>

Current law only provides the following requirements for batterers' intervention programs:

- The primary purpose of the program shall be victim safety and the safety of children, if present.
- The batterer shall be held accountable for acts of domestic violence.
- The program shall be at least 29 weeks in length and include 24 weekly sessions, plus appropriate intake, assessment, and orientation programming.
- The program content shall be based on a psychoeducational model that addresses tactics of power and control by one person over another.
- The program shall be funded by user fees paid by the batterers who attend the program, which allows them to take responsibility for their acts of violence.<sup>27</sup>

The DCF states that certain stakeholders, such as certified domestic violence centers, court systems, and law enforcement have expressed concern of the lack of certification and monitoring of BIPs.<sup>28</sup>

### **III. Effect of Proposed Changes:**

The bill amends s. 741.325, F.S., requiring the DCF to certify and monitor batterers' intervention programs that provide direct services to individuals who have:

- Been found to have committed an act of domestic violence;
- Had injunctions for protection against domestic violence entered against;
- Been referred by the DCF; or
- Volunteered to attend such programs.

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

<sup>26</sup> The DCF, *2021 SB 680 Agency Legislative Bill Analysis*, p. 2, January 15, 2021 (on file with the Senate Committee on Children, Families and Elder Affairs) (hereinafter cited as "The DCF Analysis").

<sup>27</sup> Section 741.325, F.S.

<sup>28</sup> The DCF Analysis, p. 5.

The bill also provides requirements that must be met in order for a batterer's intervention program to be certified by the DCF. The primary purpose of the program continues to be the focus on victim safety and safety of children, including:

- Safety measures that must include, but not be limited to:
  - Coordination with the criminal justice system, domestic violence centers, social service agencies, and state and local agencies.
  - Level 2 background screenings for program personnel in accordance with ch. 435, F.S., that comply with state and federal requirements for processing and retention and that prohibit the employment of perpetrators of domestic violence.
  - Requirements for victim notification.
  - Extensive recordkeeping requirements and written operating policies and manuals.
  - Rigorous facilitator credentialing procedures and continuing education requirements.
- Specified measures for holding the batterer accountable for acts of domestic violence, including new program requirements that are not in current law and include:
  - Assigning to batterers responsibility for their acts;
  - Providing a strategy to assist the batterers in taking responsibility for their acts;
  - Improving batterers ability to articulate and identify emotions;
  - Encouraging the batterers to develop critical thinking skills;
  - Teaching batterers about the effects of domestic violence on children.
  - Improving the batterers' negotiation and conflict resolution skills;
  - Teaching the batterers communication skills and how to listen to others;
  - Challenging the batterers' gender roles expectations;
  - Teaching the batterers about the relationship between substance abuse and domestic violence; and
  - Supporting the principle that domestic violence is primarily a learned behavior and is not a natural response to provocation.

The bill requires that a BIP be at least 29 weeks in length and include at least 24 weekly group sessions plus appropriate intake, assessment, and orientation programming. When the DCF had the responsibility for certifying and monitoring BIPs it was required to promulgate guidelines to govern purpose, policies, standards of care, appropriate intervention approaches, inappropriate intervention approaches during the batterers' program intervention phase including couples counseling and mediation, conflicts of interest, assessment, program content and specifics, qualifications of providers, and credentials for facilitators, supervisors, and trainees.<sup>29</sup> Any rules or guidelines that were developed have been repealed or are no longer available. Currently, BIPs are only required to be based on a psychoeducational model that addresses tactics of power and control by one person over another.<sup>30</sup>

The bill also requires program content that is based on an intervention model that recognizes the use of power and control tactics by one person to inflict emotional or physical abuse on another. The bill replaces the term "psychoeducational" with the term "intervention" when referring to program content but both terms focus on the use of power and control tactics by one person to harm another. It is unclear what the difference is in approach. The bill specifies things that may not be included in program content which is different than current law, including anger

<sup>29</sup> Section 741.325, F.S. 2011.

<sup>30</sup> Section 741.325(1)(d), F.S. 2020.

management techniques that identify anger as a primary cause of domestic violence and identification of poor impulse control as a primary cause of domestic violence.

The bill requires that all participants in a group session must be the same gender and if a participant in the group is not fluent in the English language, at least one facilitator must be able to translate or effectively communicate in the participant's native language. That facilitator must be affiliated with the program.

The bill requires the program to be funded by user fees paid by the batterers who attend the program and while a batterer may not be admitted to the program until the fee has been paid, a batterer who has been deemed indigent by the court and is unable to pay the user fee may not be refused admittance.

The bill requires the DCF to annually review the intervention programs to ensure compliance and the DCF may reject or suspend the certification of a program that does not meet the required qualifications. The DCF must notify the court of any program suspensions and must adopt rules to implement the requirements of the bill.

The bill provides the DCF with rulemaking authority.

The bill also amends ss. 741.281, 741.2902, 741.30, 741.31, and 948.038, F.S., conforming references to changes made by the act.

The bill is effective July 1, 2021.

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

##### **A. Municipality/County Mandates Restrictions:**

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, Section 18 of the Florida Constitution.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

##### **D. State Tax or Fee Increases:**

None.

##### **E. Other Constitutional Issues:**

None identified.

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

SB 682, which is tied to this bill, establishes a revived, reenacted statutory fee of not more than \$300 for the certification and monitoring of batterers' intervention programs created in 1995 and repealed in 2012 and a currently existing \$30 fee to be paid by individuals attending a program.

**B. Private Sector Impact:**

Expenditure:

The total fiscal impact to the private sector for state and national criminal history record checks with five years of Clearinghouse retention is \$45.25. The cost for a state and national criminal history record check is \$21.25; the FBI fee is \$13.25 for the national portion of the criminal history record check and \$8 goes into the FDLE's Operating Trust Fund for the state portion of the criminal history record check. Five years of fingerprint retention (\$24), paid up front, goes into the FDLE's Operating Trust Fund.<sup>31</sup>

**C. Government Sector Impact:**

FDLE provides that total fiscal revenue for the state portion of a state and national criminal history record check with five years of Clearinghouse retention is \$32. The cost for the state portion of a state and national criminal history record check is \$8. Since persons screened pursuant to this bill will be entered in the Clearinghouse, \$24 for five years of state fingerprint retention will be paid up front and will go into FDLE's Operating Trust Fund. There will be no fees required by the FBI for federal fingerprint retention.

While the impact of this bill does not necessitate additional FTE or other resources, this bill in combination with additional criminal history record check bills could rise to the level requiring additional staffing and other resources.<sup>32</sup>

The DCF provides that the bill does not result in expenditures to state or local government.<sup>33</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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<sup>31</sup> Florida Department of Law Enforcement, 2021 FDLE Bill Analysis, SB 680, February 5, 2021. (On file with the Senate Committee on Children, Families, and Elder Affairs).

<sup>32</sup> *Id.*

<sup>33</sup> The DCF Analysis, p. 6.

**VIII. Statutes Affected:**

This bill substantially amends ss. 741.325, 741.281, 741.2902, 741.30, 741.31, and 948.038 of the Florida Statutes.

**IX. 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 2, 2021:**

The committee substitute provides that all background screenings required by the bill meet state and federal requirements related to fingerprint processing and retention.

- B. **Amendments:**

None.



609710

LEGISLATIVE ACTION

| Senate     | . | House |
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| 03/02/2021 | . |       |
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The Committee on Children, Families, and Elder Affairs (Bracy)  
recommended the following:

**Senate Amendment**

Delete line 59  
and insert:  
SB 680 or similar legislation takes effect, if such legislation

By Senator Bracy

11-00903-21

2021682\_\_

A bill to be entitled  
An act relating to fees; reviving, reenacting, and  
amending s. 741.327, F.S., relating to certification  
and monitoring of batterers' intervention programs and  
fees; requiring the Department of Children and  
Families to assess and collect an annual certification  
fee from batterers' intervention programs; requiring  
certain persons attending certified batterers'  
intervention programs to pay a fee for each program  
attended; requiring the batterers' intervention  
programs to collect and remit such fee to the  
department; providing an exception; requiring  
certification and user fees to be deposited in the  
Domestic Violence Trust Fund for a specified purpose;  
providing a contingent effective date.

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

Section 1. Notwithstanding the repeal of section 741.327,  
Florida Statutes, in section 14 of chapter 2012-147, Laws of  
Florida, section 741.327, Florida Statutes, is revived,  
reenacted, and amended to read:

741.327 Certification and monitoring of batterers'  
intervention programs; fees.—

(1) ~~Pursuant to s. 741.32,~~ The Department of Children and  
Families shall ~~Family Services is authorized to~~ assess and  
collect from batterers' intervention programs+

~~(a) an annual certification fee not to exceed \$300 for the~~  
~~certification and monitoring of batterers' intervention~~

11-00903-21

2021682\_\_

30 programs.

31 ~~(b) An annual certification fee not to exceed \$200 for the~~  
32 ~~certification and monitoring of assessment personnel providing~~  
33 ~~direct services to persons who:~~

34 ~~1. Are ordered by the court to participate in a domestic~~  
35 ~~violence prevention program;~~

36 ~~2. Are adjudged to have committed an act of domestic~~  
37 ~~violence as defined in s. 741.28;~~

38 ~~3. Have an injunction entered for protection against~~  
39 ~~domestic violence; or~~

40 ~~4. Agree to attend a program as part of a diversion or~~  
41 ~~pretrial intervention agreement by the offender with the state~~  
42 ~~attorney.~~

43 (2) All persons required by the court to attend a  
44 batterers' intervention program ~~domestic violence programs~~  
45 certified by the Department of Children and Families ~~Family~~  
46 ~~Services' Office for Certification and Monitoring of Batterers'~~  
47 ~~Intervention Programs shall pay a an additional \$30 fee for each~~  
48 ~~29-week program they attend. The program shall collect and remit~~  
49 ~~this fee~~ to the Department of Children and Families ~~Family~~  
50 ~~Services. A person deemed indigent by the court is not required~~  
51 ~~to pay this program fee.~~

52 (3) The fees assessed and collected under this section  
53 shall be deposited in the Executive Office of the Governor's  
54 Domestic Violence Trust Fund established in s. 741.01 and  
55 directed to the Department of Children and Families ~~Family~~  
56 ~~Services~~ to fund the cost of certifying and monitoring  
57 batterers' intervention programs.

58 Section 2. This act shall take effect on the same date that

11-00903-21

2021682\_\_

59 SB XXX or similar legislation takes effect, if such legislation  
60 is adopted in the same legislative session or an extension  
61 thereof and becomes a law.

**COMMITTEE:** Children, Families, and Elder Affairs  
**ITEM:** SB 682  
**FINAL ACTION:** Favorable with Committee Substitute  
**MEETING DATE:** Tuesday, March 2, 2021  
**TIME:** 4:00—6:00 p.m.  
**PLACE:** 37 Senate Building

[illegible]

CODES: FAV=Favorable  
UNF=Unfavorable  
-R=Reconsidered

RCS=Replaced by Committee Substitute  
RE=Replaced by Engrossed Amendment  
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed  
VA=Vote After Roll Call  
VC=Vote Change After Roll Call

WD=Withdrawn  
OO=Out of Order  
AV=Abstain from Voting

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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

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BILL: CS/SB 682

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

SUBJECT: Fees/Batterers' Intervention Programs

DATE: March 3, 2021

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

|    | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION        |
|----|---------|----------------|-----------|---------------|
| 1. | Preston | Cox            | CF        | <b>Fav/CS</b> |
| 2. |         |                | AHS       |               |
| 3. |         |                | AP        |               |

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Technical Changes

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**I. Summary:**

CS/SB 682 revives, reenacts, and amends s. 741.327, F.S., related to certification and monitoring of batterers' intervention programs and fees, requiring the DCF to assess and collect a statutory fee not to exceed \$300 for the annual certification and monitoring of batterers' intervention programs (BIP). This certification and monitoring requirement was first created in 1995 and was repealed in 2012.

The Florida Constitution requires that legislation imposing or authorizing new state taxes or fees and legislation that raises existing state taxes or fees to be passed by a two-thirds vote of the membership of each house of the Legislature, and the tax or fee provisions must be passed in a separate bill. CS/SB 682 applies a revived and reenacted fee for the certification and monitoring of BIPs and a currently existing fee for individuals attending the program. As such, the Florida Constitution may require that the fees be passed in a separate bill by a two-thirds vote of the membership of each house of the Legislature.

An annual fee not to exceed \$300 will be assessed and collected from a BIP for monitoring and certifying the program. A user fee in the amount of \$30 is to be paid by an individual attending a program. CS/SB 680, which is tied to this bill, requires the DCF to complete the certification process, which may include visiting the BIP sites to ensure that the programs are in compliance with the statutory requirements. The DCF states that if all 133 active BIP providers apply for certification and recertification, the DCF will collect \$39,900 annually. See Section V. Fiscal Impact Statement.

The provisions of the bill take effect on the same date that SB 680, or other similar legislation, takes effect if such legislation is passed in the same legislative session or extension thereof.

## **II. Present Situation:**

### **Domestic Violence**

The National Coalition Against Domestic Violence defines domestic violence as the willful intimidation, physical assault, battery, sexual assault, and/or other abusive behavior as part of a systematic pattern of power and control perpetrated by one intimate partner against another. It includes physical violence, sexual violence, threats, economic, and emotional/psychological abuse.<sup>1</sup>

Nationally, more than 10 million adults experience domestic violence annually. Further, it is estimated that 25 percent of women and 10 percent of men experience sexual violence, physical violence or stalking by an intimate partner during their lifetime.<sup>2</sup>

### **Batterers' Intervention Programs**

Batterers' Intervention Programs (BIPs) are programs that batterers attend either voluntarily or under court order to educate and rehabilitate the batterer. The goal of BIPs is to change offender thinking and behavior with the result that offenders are held accountable and victim safety is enhanced and to decrease the likelihood of further violence. An important feature of BIPs is that the programs are designed to first promote survivor safety, which is achieved through accountability. All offender participants must sign a waiver of confidentiality to permit disclosure of participation to survivors, probation, and the courts, as needed. This assists the BIPs' accountability to survivors by ensuring that survivors have information needed to make informed decisions through sharing information with courts and probation.<sup>3</sup>

Currently there is no state entity certifying and monitoring BIPs and collecting annual fees from BIP providers seeking certification.<sup>4</sup> The Office of State Court Administrator lists 133 active BIP providers in Florida on its website.<sup>5</sup> <https://www.flcourts.org/Resources-Services/Court-Improvement/Family-Courts/Domestic-Violence/Batterers-Intervention-Program-List-of-Providers>

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<sup>1</sup> National Coalition Against Domestic Violence, *Domestic Violence*, available at [https://assets.speakcdn.com/assets/2497/domestic\\_violence-2020080709350855.pdf?1596828650457](https://assets.speakcdn.com/assets/2497/domestic_violence-2020080709350855.pdf?1596828650457) (last visited February 25, 2021).

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

<sup>3</sup> The Advocates for Human Rights, Stop Violence Against Women, *Batterers' Intervention Programs*, March 2019, available at [https://www.stopvaw.org/batterers\\_intervention\\_programs](https://www.stopvaw.org/batterers_intervention_programs) (last visited February 25, 2021).

<sup>4</sup> Department of Children and Families, 2021 Agency Legislative Bill Analysis, SB 682. On file with the Senate Committee on Children, Families and Elder Affairs.

<sup>5</sup> Florida Courts, Batterers' Intervention Program List of Providers, Available at: <https://www.flcourts.org/Resources-Services/Court-Improvement/Family-Courts/Domestic-Violence/Batterers-Intervention-Program-List-of-Providers> (last visited February 25, 2021).

### ***Florida Batterers' Intervention Programs***

BIPs were first recognized in statute in 1995 and the responsibility for certifying and monitoring the programs was placed in the Department of Corrections (DOC) Office for Certification and Monitoring of Batterers' Intervention Programs (OCMBIP).<sup>6</sup>

In 2001, the OCMBIP, along with all associated resources, powers, and responsibilities, was transferred from the DOC to the DCF. The fees assessed and collected under this section were required to be deposited in the Executive Office of the Governor's Domestic Violence Trust Fund and directed to the DCF to fund the cost of certifying and monitoring batterers' intervention programs.<sup>7</sup>

At that time a \$300.00 fee was collected from batterers' intervention programs applying for state certification and a \$100.00 fee from individuals applying for state certification as an assessor under s. 741.327, F.S. (2001). In addition, court ordered perpetrators of domestic violence were required to pay a one-time \$30.00 participant's fee which is collected by the certified programs and forwarded to the OCMBIP on a monthly basis.<sup>8</sup>

In 2012, the duties and functions of the DCF were revised relating to the domestic violence program. Those changes included, in part, the elimination of the certification of batterers' intervention programs as well as the authority for the DCF to collect fees associated with the certification program.<sup>9</sup> Specifically, with respect to the batterers' intervention programs:

- Legislative intent relating to certifying batterers' intervention programs was amended;
- The role of the DCF related to the certification of these programs was eliminated;
- Statutory references to certified batterers' intervention programs were eliminated;
- The requirement that batterers' intervention programs meet the requirements currently in law was unchanged, but the authority for the DCF to promulgate rules to establish these requirements was removed; and
- References to batterers' intervention programs in statute were retained but references to the programs being certified by the DCF were removed.<sup>10</sup>

Current law only provides the following requirements for batterers' intervention programs:

- The primary purpose of the program shall be victim safety and the safety of children, if present.
- The batterer shall be held accountable for acts of domestic violence.
- The program shall be at least 29 weeks in length and include 24 weekly sessions, plus appropriate intake, assessment, and orientation programming.
- The program content shall be based on a psychoeducational model that addresses tactics of power and control by one person over another.

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<sup>6</sup> Chapter 95-195, L.O.F.

<sup>7</sup> Chapter 2001-183, L.O.F.

<sup>8</sup> HB 1729, Bill Analysis, March 22, 2001, available at:

[https://www.flsenate.gov/Session/Bill/2001/1729/Analyses/20011729HFRC\\_2001h1729.frc.pdf](https://www.flsenate.gov/Session/Bill/2001/1729/Analyses/20011729HFRC_2001h1729.frc.pdf) (last visited February 24, 2021).

<sup>9</sup> Chapter 2012-147, L.O.F.

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

- The program shall be funded by user fees paid by the batterers who attend the program, which allows them to take responsibility for their acts of violence.<sup>11</sup>

The DCF states that certain stakeholders, such as certified domestic violence centers, court systems, and law enforcement have expressed concern of the lack of certification and monitoring of BIPs.<sup>12</sup>

### ***Fees Associated with Batterer's Intervention Programs***

Currently, the only statutorily required fee related to BIPs is a user fee paid by the individuals attending the program. No amount for the fee is specified.<sup>13</sup> The requirement for a fee for monitoring and certification of programs and a specified amount of the user fee was repealed in 2012.<sup>14</sup>

### **CS/SB 680**

CS/SB 680 amends s. 741.325, F.S., requiring the DCF to certify and monitor batterers' intervention programs that provide direct services to specified individuals. SB 680 also provides requirements that must be met in order for a batterer's intervention program to be certified by the DCF.

CS/SB 680 requires the program to be funded by user fees paid by the batterers who attend the program and while a batterer may not be admitted to the program until the fee has been paid, a batterer who has been deemed indigent by the court and is unable to pay the user fee may not be refused admittance. Further, CS/SB 680 requires the DCF to annually review the intervention programs to ensure compliance and the DCF may reject or suspend the certification of a program that does not meet the required qualifications. The DCF must notify the court of any program suspensions and must adopt rules to implement the requirements of the bill.

CS/SB 680 provides an effective date of July 1, 2021.

### **III. Effect of Proposed Changes:**

The bill revives, reenacts, and amends s. 741.327, F.S., related to certification and monitoring of batterers' intervention programs and fees, requiring the DCF to assess and collect a statutory fee not to exceed \$300 for the annual certification and monitoring of BIPs. Additionally, the bill requires a person court-ordered to a BIP to pay the \$30 fee for each 29-week program attended and the program must remit the fee to the DCF. However, a person who is indigent is not required to pay the \$30 program fee.

The provisions of the bill take effect on the same date that SB 680, or other similar legislation, takes effect if such legislation is passed in the same legislative session or extension thereof.

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

<sup>12</sup> The DCF, *2021 SB 682 Agency Legislative Bill Analysis*, p. 3, January 15, 2021 (on file with the Senate Committee on Children, Families and Elder Affairs) (hereinafter cited as "The DCF Analysis").

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

<sup>14</sup> Chapter 2012-147, L.O.F.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, Section 18 of the Florida Constitution.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

The bill applies a revived, reenacted statutory fee the certification and monitoring of batterers' intervention programs (BIP) created in 1995 and a currently existing fee to be paid by individuals attending a program. As such, the Florida Constitution may require that the fees be passed in a separate bill by a two-thirds vote of the membership of each house of the Legislature.

Article VII, s. 19, of the Florida Constitution requires that a new state tax or fee, as well as an increased state tax or fee, must be approved by two-thirds of the membership of each house of the Legislature and must be contained in a separate bill that contains no other subject. Article VII, s. 19(d)(1), of the Florida Constitution defines "fee" to mean "any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service."<sup>15</sup>

**E. Other Constitutional Issues:**

None identified.

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

The bill revives an annual fee not to exceed \$300 on BIPs for certification through the DCF.

**B. Private Sector Impact:**

A fee not to exceed \$300 will be assessed and collected from a BIP for monitoring and certifying the program. A user fee in the amount of \$30 is to be paid by an individual attending a program. The DCF states that it is not possible to calculate the potential total

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<sup>15</sup> FLA. CONST. art. VII, s. 19(d)(1)

amount of user fees BIPs would collect and remit to the DCF annually given that there is no data readily available regarding number of persons that are required to attend BIPs by the courts annually.<sup>16</sup>

**C. Government Sector Impact:**

CS/SB 680 requires the DCF to complete the certification process, which may include visiting the BIP sites to ensure that the programs are in compliance with the statutory requirements. This bill also provides that the fees assessed and collected are required to be deposited into the Executive Office of the Governor's Domestic Violence Trust Fund and directed to the DCF. The DCF states that if all 133 active BIP providers apply for certification and recertification, the DCF will collect \$39,900 annually.<sup>17</sup>

To the extent that the fees collected and deposited under this bill cover the certification process of the BIPs, the bill will have an indeterminate negative fiscal impact.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill revives, reenacts, and amends s. 741.327 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.)

**CS by Children, Families, and Elder Affairs on March 2, 2021:**

The committee substitute provides the number of the tied bill, SB 680, to the bill.

**B. Amendments:**

None.

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

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<sup>16</sup> The DCF Analysis, p. 4.

<sup>17</sup> *Id.*



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LEGISLATIVE ACTION

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

**Senate Amendment (with title amendment)**

Delete lines 85 - 105  
and insert:  
has issued an exemption under s. 435.07. Exemptions from disqualification applicable to service providers pursuant to s. 435.07 or s. 397.4073 shall apply to this subsection. In accordance with s. 435.04, the department shall notify the credentialing agency of an owner's, director's, or chief financial officer's eligibility based on the results of his or



118252

her background screening.

Section 4. Subsection (5) of section 397.4871, Florida Statutes, is amended to read:

397.4871 Recovery residence administrator certification.—

(5) All applicants are subject to level 2 background screening as provided under chapter 435. An applicant is ineligible, and a credentialing entity shall deny the application, if the applicant has been found guilty of, or has entered a plea of guilty or nolo contendere to, regardless of adjudication, any offense listed in s. 408.809 or s. 435.04(2) unless the department has issued an exemption under s. 435.07. Exemptions from disqualification applicable to service providers pursuant to s. 435.07 or s. 397.4073 shall apply to this subsection. In accordance with s. 435.04, the

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

And the title is amended as follows:

Delete lines 10 - 13

and insert:

F.S.; expanding the applicability of certain exemptions for disqualification to applications for certification of a recovery residence or a recovery residence administrator, respectively;

By Senator Harrell

25-00661A-21

2021804\_\_

A bill to be entitled

An act relating to substance abuse services; amending s. 397.403, F.S.; providing criminal penalties for making certain false representations or omissions of material facts when applying for service provider licenses; amending s. 397.415, F.S.; requiring the Department of Children and Families to suspend a service provider's license under certain circumstances; amending ss. 397.487 and 397.4871, F.S.; revising the circumstances under which a credentialing entity is not required to deny an application for certification of a recovery residence or a recovery residence administrator, respectively; amending s. 397.4873, F.S.; revising applicability; revising civil penalties; requiring the department to suspend a service provider's license under certain circumstances; amending s. 553.80, F.S.; prohibiting certain dwellings used as recovery residences from being reclassified for purposes of enforcing the Florida Building Code; amending s. 633.208, F.S.; prohibiting a property owner from being required to install fire sprinklers in a residential property under certain circumstances; providing an effective date.

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

Section 1. Subsection (5) is added to section 397.403, Florida Statutes, to read:

25-00661A-21

2021804\_\_

30 397.403 License application.—

31 (5) An applicant who willfully, knowingly, and  
32 intentionally makes a false representation of material fact in a  
33 license application or who willfully, knowingly, and  
34 intentionally omits any material fact from a license application  
35 commits a felony of the third degree, punishable as provided in  
36 s. 775.082 or s. 775.083.

37 Section 2. Paragraph (a) of subsection (1) of section  
38 397.415, Florida Statutes, is amended to read:

39 397.415 Denial, suspension, and revocation; other  
40 remedies.—

41 (1) If the department determines that an applicant or  
42 licensed service provider or licensed service component thereof  
43 is not in compliance with all statutory and regulatory  
44 requirements, the department may deny, suspend, revoke, or  
45 impose reasonable restrictions or penalties on the license or  
46 any portion of the license. In such case:

47 (a) The department may:

48 1. Impose an administrative fine for a violation that is  
49 designated as a class I, class II, class III, or class IV  
50 violation pursuant to s. 397.411.

51 2. Impose an administrative fine for a violation that is  
52 not designated as a class I, class II, class III, or class IV  
53 violation pursuant to s. 397.411. Unless otherwise specified by  
54 law, the amount of the fine may not exceed \$500 for each  
55 violation. Unclassified violations may include:

56 a. Violating any term or condition of a license.

57 b. Violating any provision of this chapter or applicable  
58 rules.

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59 c. Providing services beyond the scope of the license.

60 d. Violating a moratorium imposed pursuant to this section.

61 3. Establish criteria by rule for the amount or aggregate  
62 limitation of administrative fines applicable to this chapter  
63 and applicable rules, unless the amount or aggregate limitation  
64 of the fine is prescribed by statute. Each day of violation  
65 constitutes a separate violation and is subject to a separate  
66 fine. For fines imposed by final order of the department and not  
67 subject to further appeal, the violator shall pay the fine plus  
68 interest at the rate specified in s. 55.03 for each day beyond  
69 the date set by the department for payment of the fine. If a  
70 violator does not pay the fine plus any applicable interest  
71 within 60 days after the date set by the department, the  
72 department shall immediately suspend the violator's license.

73 Section 3. Subsection (6) of section 397.487, Florida  
74 Statutes, is amended to read:

75 397.487 Voluntary certification of recovery residences.—

76 (6) All owners, directors, and chief financial officers of  
77 an applicant recovery residence are subject to level 2  
78 background screening as provided under s. 408.809 and chapter  
79 435. A recovery residence is ineligible for certification, and a  
80 credentialing entity shall deny a recovery residence's  
81 application, if any owner, director, or chief financial officer  
82 has been found guilty of, or has entered a plea of guilty or  
83 nolo contendere to, regardless of adjudication, any offense  
84 listed in s. 408.809(4) or s. 435.04(2) unless the department  
85 has issued an exemption under s. 435.07 or the credentialing  
86 entity determines that the owner, director, or chief financial  
87 officer meets the requirements for an exemption from

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disqualification under s. 397.4073 or s. 435.07. In accordance with s. 435.04, the department shall notify the credentialing agency of an owner's, director's, or chief financial officer's eligibility based on the results of his or her background screening.

Section 4. Subsection (5) of section 397.4871, Florida Statutes, is amended to read:

397.4871 Recovery residence administrator certification.—

(5) All applicants are subject to level 2 background screening as provided under chapter 435. An applicant is ineligible, and a credentialing entity shall deny the application, if the applicant has been found guilty of, or has entered a plea of guilty or nolo contendere to, regardless of adjudication, any offense listed in s. 408.809 or s. 435.04(2) unless the department has issued an exemption under s. 435.07 or the credentialing entity determines that the applicant meets the requirements for an exemption from disqualification under s. 397.4073 or s. 435.07. In accordance with s. 435.04, the department shall notify the credentialing agency of the applicant's eligibility based on the results of his or her background screening.

Section 5. Paragraph (a) of subsection (2) and subsection (6) of section 397.4873, Florida Statutes, are amended to read:

397.4873 Referrals to or from recovery residences; prohibitions; penalties.—

(2) Subsection (1) does not apply to:

~~(a) A licensed service provider under contract with a managing entity as defined in s. 394.9082.~~

(6) ~~After June 30, 2019,~~ A licensed service provider that

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violates ~~violating~~ this section ~~is shall be~~ subject to an administrative fine of \$1,000 per occurrence. If such fine is imposed by final order of the department and is not subject to further appeal, the service provider shall pay the fine plus interest at the rate specified in s. 55.03 for each day beyond the date set by the department for payment of the fine. If the service provider does not pay the fine plus any applicable interest within 60 days after the date set by the department, the department shall immediately suspend the service provider's license. Repeat violations of this section may subject a provider to license suspension or revocation pursuant to s. 397.415.

Section 6. Subsection (9) is added to section 553.80, Florida Statutes, to read:

553.80 Enforcement.—

(9) A single-family or two-family dwelling that is a certified recovery residence, as defined in s. 397.311, or that is a recovery residence, as defined in s. 397.311, that has a charter from an entity recognized or sanctioned by Congress may not be reclassified for purposes of enforcing the Florida Building Code solely due to such use.

Section 7. Subsection (10) of section 633.208, Florida Statutes, is amended to read:

633.208 Minimum firesafety standards.—

(10) Notwithstanding subsection (8), a property owner may not be required to install fire sprinklers in any residential property based upon:

(a) The use of such property as a rental property or any change in or reclassification of the property's primary use to a

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146 rental property;

147 (b) The use of such property as a certified recovery  
148 residence, as defined in s. 397.311, or any change in or  
149 reclassification of the property's primary use to a certified  
150 recovery residence; or

151 (c) The use of such property as a recovery residence, as  
152 defined in s. 397.311, if the recovery residence has a charter  
153 from an entity recognized or sanctioned by Congress.

154 Section 8. This act shall take effect July 1, 2021.

**COMMITTEE:** Children, Families, and Elder Affairs  
**ITEM:** SB 804  
**FINAL ACTION:** Favorable with Committee Substitute  
**MEETING DATE:** Tuesday, March 2, 2021  
**TIME:** 4:00—6:00 p.m.  
**PLACE:** 37 Senate Building

[illegible]

CODES: FAV=Favorable  
UNF=Unfavorable  
-R=Reconsidered

RCS=Replaced by Committee Substitute  
RE=Replaced by Engrossed Amendment  
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed  
VA=Vote After Roll Call  
VC=Vote Change After Roll Call

WD=Withdrawn  
OO=Out of Order  
AV=Abstain from Voting

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

Duplicate

March 2, 2021

Meeting Date

THE FLORIDA SENATE

## APPEARANCE RECORD

804

Bill Number (if applicable)

Topic Substance Abuse Services

Name Barney Bishop III

Amendment Barcode (if applicable)

Job Title Chief Executive Officer

Address 2215 Thomasville Road

Street

Tallahassee

FL

32308

Phone 850.510.9922

City

State

Zip

Email barney@barneybishop.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Smart Justice 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 (10/14/14)

**YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM**

**THE FLORIDA SENATE**

**APPEARANCE RECORD**

March 2, 2021

*Meeting Date*

804

*Bill Number (if applicable)*

Topic Substance Abuse Services

*Amendment Barcode (if applicable)*

Name Barney Bishop III

Job Title Chief Executive Officer

Address 2215 Thomasville Road

*Street*

Phone 850.510.9922

Tallahassee

FL

32308

*City*

*State*

*Zip*

Email barney@barneybishop.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Smart Justice 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.***

8-001 (10/14/11)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

3/2/21  
Meeting Date

804  
Bill Number (if applicable)

Topic Substance Abuse

Amendment Barcode (if applicable)

Name Neal McGarry

Job Title CEO

Address 1715 S. Gadsden St

Phone 850-222-6314

Street

Tall  
City

FL  
State

32301  
Zip

Email

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Certification Board

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 (10/14/14)

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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

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BILL: CS/SB 804

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

SUBJECT: Substance Abuse Services

DATE: March 3, 2021

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

|    | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------|
| 1. | Delia   | Cox            | CF        | Fav/CS |
| 2. |         |                | CA        |        |
| 3. |         |                | RC        |        |

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 804 makes several changes to provisions governing the licensure and regulation of substance abuse treatment programs, including recovery residences.

The bill makes it a third degree felony to falsify information, or to withhold material facts, on an application for licensure as a substance abuse service provider.

The bill authorizes the Department of Children and Families (DCF) to suspend a service provider's license for failing to pay, within 60 days of a date set by the DCF, administrative fines and accrued interest related to disciplinary action taken against the service provider. The bill also mandates that a service provider pay fines and accrued interest resulting from violations of patient referral prohibitions within 60 days of a date specified by the DCF. If a service provider fails to remit payment within 60 days, the bill requires the DCF to immediately suspend the service provider's license.

The bill also broadens the eligibility for exemption from employment disqualification for certain prior criminal offenses to specified employees of an applicant recovery residence and to applicant recovery residence administrators.

The bill prohibits certain classes of dwellings that are used as recovery residences from enforcement of the Florida Building Code and from the Florida Fire Prevention Code's requirement for installation of fire sprinklers.

The DCF's Office of Administrative Services estimates there will be an indeterminate negative fiscal impact to both private substance abuse service providers and state government. See Section V. Fiscal Impact Statement.

The bill has an effective date of July 1, 2021.

## II. Present Situation:

### Substance Abuse

Substance abuse is the harmful or hazardous use of psychoactive substances, including alcohol and illicit drugs.<sup>1</sup> According to the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5), a diagnosis of substance use disorder (SUD) is based on evidence of impaired control, social impairment, risky use, and pharmacological criteria.<sup>2</sup> SUD occurs when an individual chronically uses alcohol or drugs, resulting in significant impairment, such as health problems, disability, and failure to meet major responsibilities at work, school, or home.<sup>3</sup> Repeated drug use leads to changes in the brain's structure and function that can make a person more susceptible to developing a substance abuse disorder.<sup>4</sup> Imaging studies of brains belonging to persons with SUD reveal physical changes in areas of the brain critical to judgment, decision making, learning and memory, and behavior control.<sup>5</sup>

In 2018, approximately 20.3 million people aged 12 or older had a SUD related to corresponding use of alcohol or illicit drugs within the previous year, including 14.8 million people diagnosed with alcohol use disorder and 8.1 million people diagnosed with drug use disorder.<sup>6</sup> The most common SUD diagnoses in the United States are related to the use of alcohol, tobacco, cannabis, opioids, hallucinogens, and stimulants.<sup>7</sup>

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<sup>1</sup> The World Health Organization, *Mental Health and Substance Abuse*, available at <https://www.who.int/westernpacific/about/how-we-work/programmes/mental-health-and-substance-abuse>; (last visited February 27, 2021); the National Institute on Drug Abuse (NIDA), *The Science of Drug Use and Addiction: The Basics*, available at <https://www.drugabuse.gov/publications/media-guide/science-drug-use-addiction-basics> (last visited February 21, 2021).

<sup>2</sup> The National Association of Addiction Treatment Providers, *Substance Use Disorder*, available at <https://www.naatp.org/resources/clinical/substance-use-disorder> (last visited February 21, 2021).

<sup>3</sup> The Substance Abuse and Mental Health Services Administration (The SAMHSA), *Substance Use Disorders*, <http://www.samhsa.gov/disorders/substance-use> (last visited February 21, 2021).

<sup>4</sup> The NIDA, *Drugs, Brains, and Behavior: The Science of Addiction*, available at <https://www.drugabuse.gov/publications/drugs-brains-behavior-science-addiction/drug-abuse-addiction> (last visited February 21, 2021).

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

<sup>6</sup> The SAMHSA, *Key Substance Use and Mental Health Indicators in the United States: Results from the 2018 National Survey on Drug Use and Health*, p. 2, available at <https://www.samhsa.gov/data/sites/default/files/cbhsq-reports/NSDUHNationalFindingsReport2018/NSDUHNationalFindingsReport2018.pdf> (last visited February 21, 2021).

<sup>7</sup> The Rural Health Information Hub, *Defining Substance Abuse and Substance Use Disorders*, available at <https://www.ruralhealthinfo.org/toolkits/substance-abuse/1/definition> (last visited February 21, 2021).

### ***Substance Abuse Treatment in Florida***

In the early 1970s, the federal government enacted laws creating formula grants for states to develop continuums of care for individuals and families affected by substance abuse.<sup>8</sup> The laws resulted in separate funding streams and requirements for alcoholism and drug abuse. In response to the laws, the Florida Legislature enacted chs. 396 and 397, F.S., relating to alcohol and drug abuse, respectively.<sup>9</sup> Each of these laws governed different aspects of addiction, and thus had different rules promulgated by the state to fully implement the respective pieces of legislation.<sup>10</sup> However, because persons with substance abuse issues often do not restrict their misuse to one substance or another, having two separate laws dealing with the prevention and treatment of addiction was cumbersome and did not adequately address Florida's substance abuse problem.<sup>11</sup> In 1993, legislation was adopted to combine ch. 396 and 397, F.S., into a single law, the Hal S. Marchman Alcohol and Other Drug Services Act (Marchman Act).<sup>12</sup>

The Marchman Act encourages individuals to seek services on a voluntary basis within the existing financial and space capacities of a service provider.<sup>13</sup> However, denial of addiction is a prevalent symptom of SUD, creating a barrier to timely intervention and effective treatment.<sup>14</sup> As a result, treatment typically must stem from a third party providing the intervention needed for SUD treatment.<sup>15</sup>

The DCF administers a statewide system of safety-net services for substance abuse and mental health (SAMH) prevention, treatment and recovery for children and adults who are otherwise unable to obtain these services. Services are provided based upon state and federally-established priority populations.<sup>16</sup> The DCF provides treatment for SUD through a community-based provider system offering detoxification, treatment, and recovery support for individuals affected by substance misuse, abuse, or dependence.<sup>17</sup>

- **Detoxification Services:** Detoxification services use medical and clinical procedures to assist individuals and adults as they withdraw from the physiological and psychological effects of substance abuse.<sup>18</sup>

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<sup>8</sup> The DCF, *Baker Act and Marchman Act Project Team Report for Fiscal Year 2016-2017*, p. 4-5. (on file with the Senate Children, Families, and Elder Affairs Committee).

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

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

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

<sup>12</sup> Chapter 93-39, s. 2, L.O.F., which codified current ch. 397, F.S.

<sup>13</sup> See s. 397.601(1) and (2), F.S. An individual who wishes to enter treatment may apply to a service provider for voluntary admission. Within the financial and space capabilities of the service provider, the individual must be admitted to treatment when sufficient evidence exists that he or she is impaired by substance abuse and his or her medical and behavioral conditions are not beyond the safe management capabilities of the service provider.

<sup>14</sup> Darran Duchene and Patrick Lane, *Fundamentals of the Marchman Act*, Risk RX, Vol. 6 No. 2 (Apr. – Jun. 2006) State University System of Florida Self-Insurance Programs, available at <http://flbog.sip.ufl.edu/risk-rx-article/fundamentals-of-the-marchman-act/> (last visited February 21, 2021) (hereinafter cited as “Fundamentals of the Marchman Act”).

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

<sup>16</sup> See chs. 394 and 397, F.S.

<sup>17</sup> The DCF, *Treatment for Substance Abuse*, available at <https://www.myflfamilies.com/service-programs/samh/substance-abuse.shtml> (last visited February 21, 2021).

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

- **Treatment Services:** Treatment services<sup>19</sup> include a wide array of assessment, counseling, case management, and support that are designed to help individuals who have lost their abilities to control their substance use on their own and require formal, structured intervention and support.<sup>20</sup>
- **Recovery Support:** Recovery support services, including transitional housing, life skills training, parenting skills, and peer-based individual and group counseling, are offered during and following treatment to further assist individuals in their development of the knowledge and skills necessary to maintain their recovery.<sup>21</sup>

### Licensure of Substance Abuse Service Providers

The DCF regulates substance use disorder treatment by licensing individual treatment components under ch. 397, F.S., and rule 65D-30, F.A.C. Licensed service components include a continuum of substance abuse prevention,<sup>22</sup> intervention,<sup>23</sup> and clinical treatment services.<sup>24</sup>

Clinical treatment is a professionally directed, deliberate, and planned regimen of services and interventions that are designed to reduce or eliminate the misuse of drugs and alcohol and promote a healthy, drug-free lifestyle.<sup>25</sup> “Clinical treatment services” include, but are not limited to, the following licensable service components:

- Addictions receiving facility.
- Day or night treatment.
- Day or night treatment with community housing.
- Detoxification.
- Intensive inpatient treatment.
- Intensive outpatient treatment.
- Medication-assisted treatment for opiate addiction.
- Outpatient treatment.
- Residential treatment.<sup>26</sup>

<sup>19</sup> *Id.* Research indicates that persons who successfully complete substance abuse treatment have better post-treatment outcomes related to future abstinence, reduced use, less involvement in the criminal justice system, reduced involvement in the child-protective system, employment, increased earnings, and better health.

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

<sup>21</sup> *Id.*

<sup>22</sup> Section 397.311(26)(c), F.S. “Prevention” is defined as “a process involving strategies that are aimed at the individual, family, community, or substance and that preclude, forestall, or impede the development of substance use problems and promote responsible lifestyles”. See also, The DCF, *Substance Abuse: Prevention*, <https://www.myflfamilies.com/service-programs/samh/prevention/index.shtml> (last visited February 21, 2021). Substance abuse prevention is achieved through the use of ongoing strategies such as increasing public awareness and education, community-based processes and evidence-based practices. These prevention programs are focused primarily on youth, and, in recent years, have shifted to the local level, giving individual communities the opportunity to identify their own unique prevention needs and develop action plans in response. This community focus allows prevention strategies to have a greater impact on behavioral change by shifting social, cultural and community environments.

<sup>23</sup> Section 397.311(26)(b), F.S. “Intervention” is defined as “structured services directed toward individuals or groups at risk of substance abuse and focused on reducing or impeding those factors associated with the onset or the early stages of substance abuse and related problems.”

<sup>24</sup> Section 397.311(26), F.S.

<sup>25</sup> Section 397.311(26)(a), F.S.

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

Florida does not license recovery residences; instead, in 2015 the Legislature enacted sections 397.487–397.4872, F.S., which establish voluntary certification programs for recovery residences and recovery residence administrators, implemented by private credentialing entities.<sup>27</sup>

### ***Application for Licensure***

Individuals applying for licensure as substance abuse service providers must submit applications on specified forms provided, and in accordance with rules adopted, by the DCF.<sup>28</sup> Applications must include, at a minimum:

- Information establishing the name and address of the applicant service provider and its director, and also of each member, owner, officer, and shareholder, if any.
- Information establishing the competency and ability of the applicant service provider and its director to carry out the requirements of ch. 397, F.S.
- Proof satisfactory to the department of the applicant service provider’s financial ability and organizational capability to operate in accordance with ch. 397, F.S.
- Proof of liability insurance coverage in amounts set by the DCF by rule.
- Sufficient information to conduct background screening for all owners, directors, chief financial officers, and clinical supervisors as provided in s. 397.4073, F.S.
- Proof of satisfactory fire, safety, and health inspections, and compliance with local zoning ordinances. Service providers operating under a regular annual license shall have 18 months from the expiration date of their regular license within which to meet local zoning requirements. Applicants for a new license must demonstrate proof of compliance with zoning requirements prior to the department issuing a probationary license.
- A comprehensive outline of the proposed services, including sufficient detail to evaluate compliance with clinical and treatment best practices, for:
  - Any new applicant; or
  - Any licensed service provider adding a new licensable service component.
- Proof of the ability to provide services in accordance with the DCF rules.
- Any other information that the DCF finds necessary to determine the applicant’s ability to carry out its duties under this chapter and applicable rules.<sup>29</sup>

### ***Adverse Action - Applicant or Licensee***

Section 397.401, F.S., prohibits any person or agency from acting as a substance abuse service provider unless the person or agency is licensed or exempt from licensure. Based on a licensure inspection or resulting from a complaint, a provider may be cited for violations of licensure standards and a fine may be imposed.<sup>30</sup> Fines are levied based on the severity and prevalence of the violation and range in amounts per day, per violation, up to a maximum of \$500.<sup>31</sup>

Section 397.415(1)(d), F.S., allows the DCF to deny, suspend, or revoke the license of a service provider or suspend or revoke the license as to the operation of any service component or

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<sup>27</sup> Chapter 2015-100, L.O.F.

<sup>28</sup> Section 397.403(1), F.S.

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

<sup>30</sup> Section 397.415(1)(a)1., F.S.

<sup>31</sup> Section 397.415(1)(a)2.-3., F.S.

location identified on the license for false representation of a material fact in the license application or omission of any material fact from the application.

### **Substance Abuse Treatment Employee Background Screening and Exemptions**

Certain individuals affiliated with substance abuse treatment providers must undergo background screening prior to receiving a license. Section 397.4073, F.S., requires all owners, directors, chief financial officers, and clinical supervisors of service providers, as well as all service provider personnel who have direct contact with children receiving services or with adults who are developmentally disabled receiving services and peer specialists who have direct contact with individuals receiving services to undergo a level 2 background screening.<sup>32</sup>

Individuals applying for licensure must provide, at a minimum, the following:

- Information establishing the name and address of the applicant service provider and its director, and also of each member, owner, officer, and shareholder, if any.
- Information establishing the competency and ability of the applicant service provider and its director to carry out the requirements of ch. 397, F.S.
- Proof satisfactory to the DCF of the applicant service provider's financial ability and organizational capability to operate in accordance with ch. 397, F.S.
- Proof of liability insurance coverage in amounts set by the DCF by rule.
- Sufficient information to conduct background screening for all owners, directors, chief financial officers, and clinical supervisors as provided in s. 397.4073, F.S.
- Proof of satisfactory fire, safety, and health inspections, and compliance with local zoning ordinances. Service providers operating under a regular annual license shall have 18 months from the expiration date of their regular license within which to meet local zoning requirements. Applicants for a new license must demonstrate proof of compliance with zoning requirements prior to the department issuing a probationary license.
- A comprehensive outline of the proposed services, including sufficient detail to evaluate compliance with clinical and treatment best practices, for:
  - Any new applicant; or
  - Any licensed service provider adding a new licensable service component.<sup>33</sup>

In lieu of requiring the applicant to submit the information, the DCF is required to accept proof of accreditation by an accrediting organization with requirements comparable to Florida licensure regulations, or through another nationally recognized certification process which the DCF finds acceptable, and which meets the minimum licensure requirements of ch. 397, F.S.<sup>34</sup>

### **Recovery Residences**

Recovery residences (also known as “sober homes” or “sober living homes”) are alcohol- and drug-free living environments for individuals in recovery who are attempting to maintain abstinence from alcohol and drugs.<sup>35</sup> These residences offer no formal treatment (though they

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<sup>32</sup> Section 435.04, F.S., provides standards and necessary criteria for level 2 background screening.

<sup>33</sup> Section 397.403(1)(a)-(g).

<sup>34</sup> Section 397.403(2), F.S.

<sup>35</sup> The SAMSHA, *Recovery Housing: Best Practices and Suggested Guidelines*, p. 2, available at <https://www.samhsa.gov/sites/default/files/housing-best-practices-100819.pdf> (last visited February 22, 2021).

may mandate or strongly encourage attendance at 12-step groups) and are, in some cases, self-funded through resident fees.<sup>36</sup>

A recovery residence is defined as “a residential dwelling unit, the community housing component of a licensed day or night treatment facility with community housing, or other form of group housing, which is offered or advertised through any means, including oral, written, electronic, or printed means, by any person or entity as a residence that provides a peer-supported, alcohol-free, and drug-free living environment.”<sup>37</sup>

### ***Oxford House Model***

Multiple studies have found that individuals in recovery benefit from residing in a recovery residence. For example, individuals in recovery residing in an Oxford House (OH), a specific type of recovery residence, had significantly lower rates of substance use, significantly higher income, and significantly lower incarceration rates than those individuals who participate in usual group care.<sup>38</sup>

OH is a non-profit organization that rents out single-family homes for individuals recovering from addiction.<sup>39</sup> The OH model is a recovery residence of six to fifteen residents that is democratically run, self-supporting, and drug-free.<sup>40</sup> Each OH recovery residence operates pursuant to a charter issued by the OH organization. Three or more OHs within a 100-mile radius make up one OH chapter. A representative from each house meets with the others on a monthly basis to exchange information, seek resolution of problems in a particular house, and express that chapter’s vote on larger issues within the OH organization. The OH Board of Directors solely determines whether to grant or revoke an OH’s charter and exercises authority over the policies and officers of the OH.<sup>41</sup> In 1988, Congress passed the Anti-Drug Abuse Act, which, among other provisions, recognized OH as a model for recovery residences and required states to

<sup>36</sup> The Society for Community Research and Action, *Statement on Recovery Residences: The Role of Recovery Residences in Promoting Long-term Addiction Recovery*, available at <https://www.scra27.org/what-we-do/policy/policy-position-statements/statement-recovery-residences-addiction/> (last visited February 22, 2021).

<sup>37</sup> Section 397.311(37), F.S.

<sup>38</sup> An Illinois study found that those in the OHs had lower substance use (31.3% vs. 64.8%), higher monthly income (\$989.40 vs. \$440.00), and diminished incarceration rates (3% vs. 9%). OH participants, by month 24, earned roughly \$550 more per month than participants in the usual-care group. In a single year, the income difference for the entire OH sample corresponds to approximately \$494,000 in additional production. In 2002, the state of Illinois spent an average of \$23,812 per year to incarcerate each drug offender. The lower rate of incarceration among OH versus usual-care participants at 24 months (3% vs. 9%) corresponds to an annual saving of roughly \$119,000 for Illinois. Together, the productivity and incarceration benefits yield an estimated \$613,000 in savings per year, or an average of \$8,173 per OH member. L. Jason, B. Olson, J., Ferrari, and A. Lo Sasso, *Communal Housing Settings Enhance Substance Abuse Recovery*, 96 Am. J. of Pub. Health 10, (2006), at 1727-1729, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1586125/> (last visited February 21, 2021).

<sup>39</sup> Oxford House, *Oxford House Residential Leases and the Landlord Relationship: The Legal and Policy Reasons Underlying Oxford House Group Leases*, available at <https://oxfordhouse.org/userfiles/file/landlords.php#:~:text=Oxford%20House%2C%20Inc.%2C%20a,Montgomery%20County%2C%20Maryland%20in%201975> (last visited February 22, 2021).

<sup>40</sup> Oxford House, *The Purpose and Structure of Oxford House*, available at [http://www.oxfordhouse.org/userfiles/file/purpose\\_and\\_structure.php](http://www.oxfordhouse.org/userfiles/file/purpose_and_structure.php) (last visited February 22, 2021).

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

establish a recurring loan fund to support groups wishing to establish recovery residences like OH.<sup>42</sup>

A cost-benefit analysis regarding residing in Oxford Houses found variation in cost and benefits compared to other residences. The result suggests that the additional costs associated with OH treatment, roughly \$3,000, are returned nearly tenfold in the form of reduced criminal activity, incarceration, and substance use as well as increases in earning from employment.<sup>43</sup> Additionally, another study found that residents of a recovery residence were more likely to report abstaining from substance use at a higher rate, including 19 percent of residents sampled had been abstinent from drugs and alcohol for six months upon entering an OH; that proportion increased to 39 percent after six months of residency, and by 18 months 42 percent of the residents studied had achieved complete abstinence.<sup>44</sup>

### ***Voluntary Certification of Recovery Residences in Florida***

Florida utilizes voluntary certification programs for recovery residences and recovery residence administrators, implemented by private credentialing entities.<sup>45</sup> Under the voluntary certification program, the DCF has approved two credentialing entities to design the certification programs and issue certificates: the Florida Association of Recovery Residences certifies the recovery residences and the Florida Certification Board certifies recovery residence administrators.<sup>46</sup>

### ***Patient Referrals***

While certification is voluntary, Florida law incentivizes certification. Since 2016, Florida has prohibited licensed substance abuse service providers from referring patients to a recovery residence unless the recovery residence holds a valid certificate of compliance and is actively managed by a certified recovery residence administrator.<sup>47</sup> There are certain exceptions that allow referrals to or from uncertified recovery residences, including:

- A licensed service provider under contract with a behavioral health managing entity.

<sup>42</sup> Oxford House, History and Accomplishments, available at [http://www.oxfordhouse.org/userfiles/file/oxford\\_house\\_history.php](http://www.oxfordhouse.org/userfiles/file/oxford_house_history.php) (last visited February 22, 2021). See also The Anti-Drug Abuse Act, P.L. 100-690, s. 1916A (1988). This mandate was subsequently changed to a permissive provision in 1990 and codified in 42 U.S.C. § 300x-25.

<sup>43</sup> “While treatment costs were roughly \$3,000 higher for the OH group, benefits differed substantially between groups. Relative to usual care, OH enrollees exhibited a mean net benefit of \$29,022 per person. The result suggests that the additional costs associated with OH treatment, roughly \$3000, are returned nearly tenfold in the form of reduced criminal activity, incarceration, and drug and alcohol use as well as increases in earning from employment... even under the most conservative assumption, we find a statistically significant and economically meaningful net benefit to OH of \$17,800 per enrollee over two years.” A. Lo Sasso, E. Byro, L. Jason, J. Ferrari, and B. Olson, *Benefits and Costs Associated with Mutual-Help Community-Based Recovery Homes: The Oxford House Model*, 35 Evaluation and Program Planning (1), (2012) at p. 7, available at <http://europepmc.org/backend/ptpmcrender.fcgi?accid=PMC3596872&blobtype=pdf> (last visited February 22, 2021).

<sup>44</sup> D. Polcin, R. Korch, J. Bond, and G. Galloway, *Sober Living Houses for Alcohol and Drug Dependence: 18-Month Outcome*, 38 J. Substance Abuse Treatment 356-365 (2010) available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2860009/> (last visited February 22, 2021).

<sup>45</sup> Sections 397.487–397.4872, F.S.

<sup>46</sup> The DCF, *Recovery Residence Administrators and Recovery Residences*, available at <https://www.myflfamilies.com/service-programs/samh/recovery-residence/> (last visited February 22, 2021).

<sup>47</sup> Section 397.4873(1), F.S.

- Referrals by a recovery residence to a licensed service provider when the recovery residence or its owners, directors, operators, or employees do not benefit, directly or indirectly, from the referral.
- Referrals made before July 1, 2018, by a licensed service provider to that licensed service provider's wholly owned subsidiary.
- Referrals to, or accepted referrals from, a recovery residence with no direct or indirect financial or other referral relationship with the licensed service provider, and that is democratically operated by its residents pursuant to a charter from an entity recognized or sanctioned by Congress, and where the residence or any resident of the residence does not receive a benefit, directly or indirectly, for the referral.<sup>48</sup>

The DCF publishes a list of all certified recovery residences and recovery residence administrators on its website.<sup>49</sup> As of February 15, 2021, there were 391 certified recovery residences in Florida.<sup>50</sup>

## **Background Screening**

### ***Background Screening Process***

Current law establishes standard procedures for criminal history background screening of prospective employees and ch. 435, F.S., outlines the screening requirements. There are two levels of background screening: level 1 and level 2. Level 1 screening includes, at a minimum, 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,<sup>51</sup> and may include criminal records checks through local law enforcement agencies.<sup>52</sup> A level 2 background screening includes, but is not limited to, fingerprinting for statewide criminal history records checks through the FDLE and national criminal history checks through the Federal Bureau of Investigation (FBI), and may include local criminal records checks through local law enforcement agencies.<sup>53</sup>

Every person required by law to be screened pursuant to ch. 435, F.S., must submit a complete set of information necessary to conduct a screening to his or her employer.<sup>54</sup> Such information for a level 2 screening includes fingerprints, which are taken by a vendor that submits them electronically to the FDLE.<sup>55</sup>

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<sup>48</sup> Section 397.4873(2)(a)-(d), F.S.

<sup>49</sup> Section 397.4872(2), F.S.

<sup>50</sup> The Florida Association of Recovery Residences, *Certified Recovery Residences established by s. 397.487, F.S.*, available at <https://www.myflfamilies.com/service-programs/samh/recovery-residence/docs/FARR%20Certified%20Recovery%20Residences.pdf> (last visited February 23, 2021).

<sup>51</sup> The Dru Sjodin National Sex Offender Public Website is a U.S. government website that links public state, territorial, and tribal sex offender registries in one national search site, available at <https://www.nsopw.gov/> (last visited February 23, 2021).

<sup>52</sup> Section 435.03, F.S.

<sup>53</sup> Section 435.04, F.S.

<sup>54</sup> Section 435.05(1)(a), F.S.

<sup>55</sup> Section 435.04(1)(a), F.S.

For both level 1 and 2 screenings, the employer must submit the information necessary for screening to the FDLE within five working days after receiving it.<sup>56</sup> Additionally, for both levels of screening, the FDLE must perform a criminal history record check of its records.<sup>57</sup> For a level 1 screening, this is the only information searched, and once complete, the FDLE responds to the employer or agency, who must then inform the employee whether screening has revealed any disqualifying information.<sup>58</sup> For level 2 screening, the FDLE also requests the FBI to conduct a national criminal history record check of its records for each employee for whom the request is made.<sup>59</sup> The person undergoing screening must supply any missing criminal or other necessary information upon request to the requesting employer or agency within 30 days after receiving the request for the information.<sup>60</sup>

### ***Disqualifying Offenses***

Regardless of whether the screening is level 1 or level 2, the screening employer or agency must make sure that the applicant has good moral character by ensuring that the employee has not been arrested for and is awaiting final disposition of, been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or been adjudicated delinquent and the record has not been sealed or expunged for, any of the 52 offenses enumerated in s. 435.04(2), F.S., or similar law of another jurisdiction.<sup>61</sup>

### ***Exemption from Disqualification***

If an individual is disqualified due to a pending arrest, conviction, plea of nolo contendere, or adjudication of delinquency to one or more of the disqualifying offenses, s. 435.07, F.S., allows the head of the appropriate agency (in the case of substance abuse treatment, the Secretary of the DCF) to exempt applicants from disqualification under certain circumstances.<sup>62</sup>

Receiving an exemption allows that individual to work despite the disqualifying crime in that person's past. However, an individual who is considered a sexual predator,<sup>63</sup> career offender,<sup>64</sup> or sexual offender (unless not required to register)<sup>65</sup> cannot ever be exempted from disqualification.<sup>66</sup>

Additionally, individuals employed, or applicants for employment, by treatment providers who treat adolescents 13 years of age and older who are disqualified from employment solely because of certain felony offenses may be exempted from disqualification from employment, without waiting for three years.<sup>67</sup> These crimes include certain offenses related to:

- Prostitution;

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<sup>56</sup> Section 435.05(1)(b)-(c), F.S.

<sup>57</sup> *Id.*

<sup>58</sup> Section 435.05(1)(b), F.S.

<sup>59</sup> Section 435.05(1)(c), F.S.

<sup>60</sup> Section 435.05(1)(d), F.S.

<sup>61</sup> See s. 435.04(2), F.S., for a full list.

<sup>62</sup> See s. 435.07(1), F.S.

<sup>63</sup> Pursuant to s. 775.261, F.S.

<sup>64</sup> Pursuant to s. 775.261, F.S.

<sup>65</sup> Pursuant to s. 943.0435, F.S.

<sup>66</sup> Section 435.07(4)(b), F.S.

<sup>67</sup> Section 435.07(2), F.S.

- Third degree burglary of a structure or conveyance;
- Third degree felony grand theft;
- Sale of imitation controlled substance;
- Forgery;
- Uttering or publishing a forged instrument;
- Sale, manufacture, delivery, or possession with intent to sell, manufacture, or deliver controlled substances (excluding drug trafficking);
- Use, possession, manufacture, delivery, transportation, advertisement, or sale of drug paraphernalia; and
- Any related criminal attempt, solicitation, or conspiracy.<sup>68</sup>

To seek exemption from disqualification, an employee of a substance use service provider must submit a request for an exemption from disqualification within 30 days after being notified of a pending disqualification, and the DCF must grant or deny the application within 60 days of the receipt of a completed application.<sup>69</sup>

To be exempted from disqualification and thus be able to work, the applicant must demonstrate by clear and convincing evidence that he or she should not be disqualified from employment.<sup>70</sup> Clear and convincing evidence is a heavier burden than the preponderance of the evidence standard but less than beyond a reasonable doubt.<sup>71</sup> This means that the evidence presented is credible and verifiable, and that the memories of witnesses are clear and without confusion. This evidence must create a firm belief and conviction of the truth of the facts presented and, considered as a whole, must convince DCF representatives without hesitancy that the requester will not pose a threat if allowed to hold a position of special trust relative to children, vulnerable adults, or to developmentally disabled individuals. Evidence that may support an exemption includes, but is not limited to:

- Personal references.
- Letters from employers or other professionals.
- Evidence of rehabilitation, including documentation of successful participation in a rehabilitation program.
- Evidence of further education or training.
- Evidence of community involvement.
- Evidence of special awards or recognition.
- Evidence of military service.
- Parenting or other caregiver experiences.<sup>72</sup>

After the DCF receives a complete exemption request package from the applicant, the background screening coordinator searches available data, including, but not limited to, a review

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<sup>68</sup> *Id.*

<sup>69</sup> Section 397.4073(1)(f), F.S.

<sup>70</sup> Section 435.07(3)(a), F.S.

<sup>71</sup> The DCF, *CF Operating Procedure 60-18, Personnel: Exemption from Disqualification*, at p. 1, (Aug. 1, 2010), available at <https://www.myflfamilies.com/admin/publications/cfops/CFOP%20060-xx%20Human%20Resources/CFOP%2060-18,%20Exemption%20from%20Disqualification.pdf> (last visited February 23, 2021) (hereinafter, “The DCF Operating Procedure”).

<sup>72</sup> *Id.* at p. 3-4.

of records and pertinent court documents including case disposition and the applicant's plea in order to determine the appropriateness of granting the applicant an exemption.<sup>73</sup> These materials, in addition to the information provided by the applicant, form the basis for a recommendation as to whether the exemption should be granted.<sup>74</sup>

After all reasonable evidence is gathered, the background screening coordinator consults with his or her supervisor, and after consultation with the supervisor, the coordinator and the supervisor will recommend whether the exemption should be granted. The regional legal counsel's office reviews the recommendation to grant or deny an exemption to determine legal sufficiency; the criminal justice coordinator in the region in which the background screening coordinator is located also reviews the exemption request file and recommendation and makes an initial determination whether to grant or deny the exemption.<sup>75</sup>

If the regional criminal justice coordinator makes an initial determination that the exemption should be granted, the exemption request file and recommendations are forwarded to the regional director, who has delegated authority from the DCF Secretary to grant or deny the exemption.<sup>76</sup> After an exemption request decision is final, the background screener provides a written response to the applicant as to whether the request is granted or denied.<sup>77</sup>

If the DCF grants the exemption, the applicant and the facility or employer are notified of the decision by regular mail.<sup>78</sup> However, if the request is denied, notification of the decision is sent by certified mail, return receipt requested, to the applicant, addressed to the last known address and a separate letter of denial is sent by regular mail to the facility or employer.<sup>79</sup> If the application is denied, the denial letter must set forth pertinent facts that the background screening coordinator, the background screening coordinator's supervisor, the criminal justice coordinator, and regional director, where appropriate, used in deciding to deny the exemption request.<sup>80</sup> It must also inform the denied applicant of the availability of an administrative review pursuant to ch. 120, F.S.<sup>81</sup>

### ***Background Screening and Exemptions from Disqualification for Recovery Residences***

Sections 397.487 and 397.4871, F.S., require level 2 background screening for all recovery residence owners, directors and chief financial officers, and for administrators seeking certification. The DCF may exempt an individual from the disqualifying offenses of a level 2 background screening if the individual meets certain criteria and the recovery residence attests

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<sup>73</sup> *Id.* at p. 5.

<sup>74</sup> *Id.*

<sup>75</sup> *Id.*

<sup>76</sup> *Id.*

<sup>77</sup> *Id.* at 5.

<sup>78</sup> *Id.* at 6.

<sup>79</sup> *Id.*

<sup>80</sup> *Id.*

<sup>81</sup> All notices of denial of an exemption shall advise the applicant of the basis for the denial, that an administrative hearing pursuant to s. 120.57, F.S., may be requested, and that the request must be made within 21 days of receipt of the denial letter or the applicant's right to an appeal will be waived. See The DCF Operating Procedure at p. 6.

that it is in the best interest of the program.<sup>82</sup> Since 2016, the DCF has granted 16 exemptions and denied four exemption requests, one of which was granted after an administrative appeal.<sup>83</sup> Additionally, the background screening requirements of these sections are duplicative of the requirements in ch. 435, F.S.

### **Florida Building Code**

The Florida Building Code (the Building Code) establishes a single set of documents that apply to the design, construction, erection, alteration, modification, repair, or demolition of public or private buildings, structures, or facilities and to the enforcement of these requirements and allows effective and reasonable protection of public safety, health, and general welfare at the most reasonable cost to the consumer.<sup>84</sup> The Legislature has vested in local governments the authority to inspect and enforce the provisions of the Building Code to protect public health and safety.<sup>85</sup> Each local government and each legally constituted enforcement district<sup>86</sup> with statutory authority is required to regulate building construction, and each state agency must enforce the Building Code on all public or private buildings, structures, and facilities, unless such responsibility is statutorily delegated to another unit of government.<sup>87</sup>

### **Florida Fire Prevention Code**

Section 633.202, F.S., authorizes the State Fire Marshall to adopt by rule the Florida Fire Prevention Code (the Fire Code) which must contain all fire safety laws and rules that govern the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities and the enforcement of fire safety laws and rules.<sup>88</sup> The State Fire Marshal must adopt both the current edition of the National Fire Protection Association's Standard 1, Fire Prevention Code and the current edition of the Life Safety Code, NFPA 101, by reference and may modify the selected codes and standards as needed to accommodate the specific needs of the state.<sup>89</sup> Section 633.208, F.S., establishes minimum fire safety standards for residential buildings.

Section 633.208(8)(a), F.S., provides that the provisions of the Life Safety Code, as contained in the Fire Code, do not apply to one-family and two-family dwellings. While local governments may adopt fire sprinkler requirements for one-family and two-family dwellings, the Legislature intends that economic consequences of the fire sprinkler mandate on homeowners be studied before the enactment of such a requirement.<sup>90</sup> Any local government that desires to adopt a fire

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<sup>82</sup> Section 397.4872, F.S.

<sup>83</sup> E-mail correspondence with John Paul Fiore, Legislative Specialist, Department of Children and Families, dated March 1, 2021 (on file with the Senate Children, Families, and Elder Affairs committee).

<sup>84</sup> Section 553.72(1), F.S.

<sup>85</sup> Section 553.72(2), F.S.

<sup>86</sup> Section 553.80(2)(a), F.S., provides that any two or more counties or municipalities, or any combination thereof, may, in accordance with the provisions of ch. 163, F.S., governing interlocal agreements, form an enforcement district for the purpose of enforcing and administering the provisions of the Building Code. Each district so formed shall be registered on forms to be provided for that purpose.

<sup>87</sup> Section 553.80(1), F.S.

<sup>88</sup> Section 633.202(1), F.S.

<sup>89</sup> Section 633.202(2), F.S.

<sup>90</sup> Section 633.208(8)(a), F.S.

sprinkler requirement on one-family or two-family dwellings must prepare an economic cost and benefit report that analyzes the application of fire sprinklers to one-family or two-family dwellings or any proposed residential subdivision.<sup>91</sup> The report must consider the tradeoffs and specific cost savings and benefits of fire sprinklers for future owners of property.<sup>92</sup>

### III. Effect of Proposed Changes:

The bill amends s. 397.403, F.S., relating to substance abuse service provider license applications, criminalizing the withholding or misrepresentation of pertinent information from an application to the DCF for licensure as a substance abuse service provider. Specifically, the bill provides that any applicant who willingly, knowingly, and intentionally makes a false representation of, or intentionally omits, any material fact from an application for licensure commits a third degree felony.<sup>93</sup>

The bill amends s. 397.415, F.S., relating to denial, suspension, and revocation of, and other remedial actions against, substance abuse provider licenses, requiring the DCF to immediately suspend the license of a substance abuse service provider in instances where the DCF issues a final order directing the provider to pay an administrative fine by a specified date and the provider fails to remit payment, plus any applicable interest, within 60 days of that date.

The bill amends ss. 397.487 and 397.4871, F.S., relating to the voluntary certification of recovery residences and recovery residence administrators, creating an alternative path to certification for recovery residences and their administrators which would otherwise be ineligible due to an owner, director, or chief financial officer of the residence, or a recovery residence administrator, being disqualified upon a level 2 background screening. Under the bill, if the DCF determines that an owner, director, or chief financial officer of a recovery residence, or a recovery residence administrator, has met the requirements for an exemption from disqualification applicable to service provider personnel under s. 435.07, F.S., or s. 397.4073, F.S., as described above, the residence or administrator will not automatically be deemed ineligible for certification.

The bill amends s. 397.4873, F.S., relating to referrals between providers and recovery residences. Currently, licensed service providers are prohibited from referring a client or accepting a referral from a recovery residence that is not certified by a credentialing organization and managed by a certified recovery residence administrator. Providers that are contracted by managing entities are currently exempt from this provision, and the bill removes this exemption. Under the bill, in instances where a provider violates the patient referral prohibition and the DCF issues a final order imposing an administrative fine as a result, the provider must pay the fine plus interest at the rate established in s. 55.03, F.S.<sup>94</sup> for each day beyond the date specified by the final order. If the provider fails to remit payment, plus any applicable interest, within 60 days

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<sup>91</sup> *Id.*

<sup>92</sup> *Id.*

<sup>93</sup> A third degree felony is punishable by a term of imprisonment not exceeding 5 years and a fine not to exceed \$5,000. Sections 775.082 and 775.083, F.S.

<sup>94</sup> Section 55.03, F.S., provides guidelines to be used by the Chief Financial Officer in setting rates of interest payable on judgments or decrees for each calendar quarter.

of the date established by the final order, the DCF must immediately suspend the provider's license.

The bill amends s. 553.80, F.S., relating to enforcement of the Florida Building Code, providing that any single-family or two-family dwelling that is a certified recovery residence, or that is a recovery residence and has a charter recognized by Congress, cannot be reclassified for purposes of enforcing the Florida Building Code solely on the basis of its use as a recovery residence. This exception would apply to recovery residences such as the Oxford House.

The bill amends s. 633.208, F.S., relating to minimum fire safety standards, providing that a property owner will not be required to install fire sprinklers in a residential property solely on the basis of the property's use as either a certified recovery residence or a recovery residence that has a charter recognized by Congress. This exception would apply to recovery residences such as the Oxford House.

The bill is effective July 1, 2021.

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

##### **A. Municipality/County Mandates Restrictions:**

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, Section 18 of the Florida Constitution.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

##### **D. State Tax or Fee Increases:**

None.

##### **E. Other Constitutional Issues:**

None identified.

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

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

None.

**B. Private Sector Impact:**

The DCF anticipates that there may be an indeterminate negative fiscal impact to licensed substance abuse service providers contracting with managing entities, as these providers will be subject to administrative fines of up to \$1,000 per occurrence for violations of the patient referral provisions of s. 397.4873, F.S.<sup>95</sup>

**C. Government Sector Impact:**

The DCF anticipates that there may be an indeterminate positive impact on state government through collection of administrative fines levied upon licensed substance abuse service providers contracting with managing entities. A small, indeterminate expenditure may be required in order to modify the DCF's web-based licensing system to account for changes made by the bill. The DCF also predicts that there will be an indeterminate cost associated with administrative appeals hearings if local service providers appeal license suspensions.<sup>96</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 397.403, 397.415, 397.487, 397.4871, 397.4873, 553.80, and 633.208.

**IX. 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 2, 2021:**

The Committee Substitute:

- Eliminates the provision of the bill permitting a credentialing agency to determine if specified employees of an applicant recovery residence or applicant recovery residence administrator meet the criteria for exemption from employment disqualification for certain prior criminal offenses.
- Broadens the eligibility for exemption from employment disqualification pursuant to s. 435.07 and 397.4073, F.S., to include owners, directors, and chief financial officers of an applicant recovery residence and applicant recovery residence administrators.

<sup>95</sup> The DCF, *Agency Analysis of SB 804*, at p. 7 (January 25, 2021) (on file with the Senate Children, Families, and Elder Affairs Committee).

<sup>96</sup> *Id.*

B. Amendments:

None.

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

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LEGISLATIVE ACTION

| Senate     | . | House |
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| Comm: RCS  | . |       |
| 03/02/2021 | . |       |
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The Committee on Children, Families, and Elder Affairs (Wright) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 66 - 76  
and insert:

3.a. The court may not grant a parent time-sharing with his or her minor child if the parent has been convicted of or had adjudication withheld for an offense enumerated in s. 943.0435(1)(h)1.a. and at the time of the offense:

(I) The parent was 18 years of age or older; and

(II) The victim was under 18 years of age or the parent



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believed the victim to be under 18 years of age.

b. Notwithstanding sub-subparagraph a., the court may grant time-sharing to the parent if the court makes a specific finding in writing that the he or she poses no significant risk

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

And the title is amended as follows:

Delete lines 2 - 6

and insert:

An act relating to a minor time-sharing for a parent convicted of or had adjudication withheld for a specified offense; amending s. 61.13, F.S.; prohibiting a court from granting time-sharing with a minor child to a parent

By Senator Wright

14-00989-21

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A bill to be entitled

An act relating to minor time-sharing for registered sexual offenders and sexual predators; amending s. 61.13, F.S.; prohibiting a court from granting time-sharing with a minor child to a parent registered as a sexual offender or sexual predator under certain circumstances; providing an exception; providing an effective date.

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

Section 1. Paragraph (c) of subsection (2) of section 61.13, Florida Statutes, is amended to read:

61.13 Support of children; parenting and time-sharing; powers of court.—

(2)

(c) The court shall determine all matters relating to parenting and time-sharing of each minor child of the parties in accordance with the best interests of the child and in accordance with the Uniform Child Custody Jurisdiction and Enforcement Act, except that modification of a parenting plan and time-sharing schedule requires a showing of a substantial, material, and unanticipated change of circumstances.

1. It is the public policy of this state that each minor child has frequent and continuing contact with both parents after the parents separate or the marriage of the parties is dissolved and to encourage parents to share the rights and responsibilities, and joys, of childrearing. There is no presumption for or against the father or mother of the child or

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for or against any specific time-sharing schedule when creating or modifying the parenting plan of the child.

2. The court shall order that the parental responsibility for a minor 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 and chapter 775, or meets the criteria of s. 39.806(1)(d), 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. 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 specified in the parenting plan as will best protect the child or abused spouse from further harm. Whether or not there is a conviction of 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.

a. In ordering shared parental responsibility, the court may consider the expressed desires of the parents and may grant to one party the ultimate responsibility over specific aspects of the child's welfare or may divide those responsibilities

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between the parties based on the best interests of the child.  
Areas of responsibility may include education, health care, and  
any other responsibilities that the court finds unique to a  
particular family.

b. The court shall order sole parental responsibility for a  
minor child to one parent, with or without time-sharing with the  
other parent if it is in the best interests of the minor child.

3.a. The court may not grant a parent time-sharing with a  
minor child if the parent is required to register as a sexual  
offender under s. 943.0435 or a sexual predator under s. 775.21  
and at the time of the offense for which the parent had to  
register:

(I) The registrant was 18 years of age or older; and

(II) The victim was under 18 years of age or the registrant  
believed the victim to be under 18 years of age.

b. Notwithstanding sub-subparagraph a., the court may grant  
time-sharing to the registrant if the court makes a specific  
finding in writing that the registrant poses no significant risk  
of harm to the child and that time-sharing is in the best  
interests of the child.

4.3- Access to records and information pertaining to a  
minor child, including, but not limited to, medical, dental, and  
school records, may not be denied to either parent. Full rights  
under this subparagraph apply to either parent unless a court  
order specifically revokes these rights, including any  
restrictions on these rights as provided in a domestic violence  
injunction. A parent having rights under this subparagraph has  
the same rights upon request as to form, substance, and manner  
of access as are available to the other parent of a child,

14-00989-21

2021932\_\_

88 including, without limitation, the right to in-person  
89 communication with medical, dental, and education providers.

90 Section 2. This act shall take effect July 1, 2021.

**COMMITTEE:** Children, Families, and Elder Affairs  
**ITEM:** SB 932  
**FINAL ACTION:** Favorable with Committee Substitute  
**MEETING DATE:** Tuesday, March 2, 2021  
**TIME:** 4:00—6:00 p.m.  
**PLACE:** 37 Senate Building

| FINAL VOTE |     | SENATORS              | 3/02/2021<br>Amendment 723340 |     |     |     |     |     |
|------------|-----|-----------------------|-------------------------------|-----|-----|-----|-----|-----|
| Yea        | Nay |                       | Yea                           | Nay | Yea | Nay | Yea | Nay |
| X          |     | Brodeur               |                               |     |     |     |     |     |
| X          |     | Garcia                |                               |     |     |     |     |     |
| X          |     | Harrell               |                               |     |     |     |     |     |
| X          |     | Rouson                |                               |     |     |     |     |     |
|            | X   | Torres                |                               |     |     |     |     |     |
| X          |     | Wright                |                               |     |     |     |     |     |
| X          |     | Albritton, VICE CHAIR |                               |     |     |     |     |     |
| X          |     | Book, CHAIR           |                               |     |     |     |     |     |
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| 7          | 1   |                       | RCS                           | -   |     |     |     |     |
| Yea        | Nay | TOTALS                | Yea                           | Nay | Yea | Nay | Yea | Nay |

CODES: FAV=Favorable  
UNF=Unfavorable  
-R=Reconsidered

RCS=Replaced by Committee Substitute  
RE=Replaced by Engrossed Amendment  
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed  
VA=Vote After Roll Call  
VC=Vote Change After Roll Call

WD=Withdrawn  
OO=Out of Order  
AV=Abstain from Voting

**YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM**

March 2, 2021

*Meeting Date*

**THE FLORIDA SENATE**

**APPEARANCE RECORD**

932

*Bill Number (if applicable)*

Topic Minor Time-sharing for Registered Sex Offenders & Sexual Predators

Name Barney Bishop III

*Amendment Barcode (if applicable)*

Job Title Chief Executive Officer

Address 2215 Thomasville Road

*Street*

Tallahassee

*City*

FL

*State*

32308

*Zip*

Phone 850.510.9922

Email barney@barneybishop.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
*(The Chair will read this information into the record.)*

Representing Florida Smart Justice Allaince

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 (10/14/14)

**YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM**

*Duplicate*

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

March 2, 2021

*Meeting Date*

SB 932

*Bill Number (if applicable)*

Topic Time Sharing

*Amendment Barcode (if applicable)*

Name Barbara Spragg

Job Title CEO Justice Transitions Inc

Address 213 Citrus Dr

*Street*

Phone 4073216674

Sanford

FL

#2771

Email justicetransition@gmail.com

*City*

*State*

*Zip*

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against  
(The Chair will read this information into the record.)

Representing self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

March 2, 2021  
Meeting Date

SB 932  
Bill Number (if applicable)

Topic Time Sharing

Name Hailey Frye

Job Title Waitress

Address 22916 N. Settlers Blvd.  
Street

Phone 850 764-9002

Tall. FL 32303  
City State Zip

Email \_\_\_\_\_

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against  
(The Chair will read this information into the record.)

Representing Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

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March 2, 2021

Meeting Date

THE FLORIDA SENATE

APPEARANCE RECORD

SB932

Bill Number (if applicable)

Topic Time Sharing

Amendment Barcode (if applicable)

Name Jenna Weber

Job Title

Address 1000 W Brevard

Street

Tall.

City

Fl.

State

32303

Zip

Phone 813-404-8320

Email jgweber17@gmail

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against  
(The Chair will read this information into the record.)

Representing [Signature] self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

March 2, 2021  
Meeting Date

SB 932  
Bill Number (if applicable)

Topic Time Sharing

Name Elliott Smith

Job Title Warehouse

Address 427 Fairbanks  
Street

Tallahassee Fl. 32303  
City State Zip

Phone (850) 345-4627

Email \_\_\_\_\_

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against  
(The Chair will read this information into the record.)

Representing Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

March 2, 2021  
Meeting Date

SB 932  
Bill Number (if applicable)

Topic Time Sharing

Amendment Barcode (if applicable)

Name Richard Kelley

Job Title Warehouse

Address 1709 Mahan Dr  
Street

Phone 850-782-1020

toahassee FL 32308  
City State Zip

Email RichardKelley@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against  
(The Chair will read this information into the record.)

Representing self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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THE FLORIDA SENATE

# APPEARANCE RECORD

3-2-21  
Meeting Date

58932  
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Time Shaving

Name Christina Johnson

Job Title Retail Supervisor

Address 22916 N. Settlers Blvd.  
Street

Tall. Fl. 32303  
City State Zip

Phone 850 545-2426

Email cjfrye1977@icloud.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against  
(The Chair will read this information into the record.)

Representing Self  
Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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March 2, 2021  
Meeting Date

THE FLORIDA SENATE  
**APPEARANCE RECORD**

SB 932  
Bill Number (if applicable)

Topic Time Sharing

Name Emily Sellner

Job Title Ex. Admin

Address 1105 N. Monroe  
Street

Tallahassee FL 32303  
City State Zip

Phone 850 491 0581

Email emily.sellner@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against  
(The Chair will read this information into the record.)

Representing Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

3-2-21

Meeting Date

SB932

Bill Number (if applicable)

Topic Time Share

Name KEVIN SPANNER

Job Title

Address 427 FAIRBANKS DR.

Street

Tallahassee

City

FL.

State

32304

Zip

Phone 850-578-0648

Email

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against  
(The Chair will read this information into the record.)

Representing SELF

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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THE FLORIDA SENATE

## APPEARANCE RECORD

3-2-21

Meeting Date

SB932

Bill Number (if applicable)

Topic Time Sharing

Name David Mahon

Job Title GM Blaze Pizza

Address 296 N. Settlers Blvd

Street

Tallahassee

City

FL

State

32303

Zip

Phone 850-445-9729

Email

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against  
(The Chair will read this information into the record.)

Representing

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

March 2, 2021  
Meeting Date

SB 932  
Bill Number (if applicable)

Topic Time Sharing

Name Loren Sellner Jr

Job Title Sign Installer

Address 1105 N. Monroe  
Street

Tallahassee FL  
City State

32303  
Zip

Phone 816-695-4218

Email LSellnerjr@yahoo.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against  
(The Chair will read this information into the record.)

Representing Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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THE FLORIDA SENATE

APPEARANCE RECORD

3-2-21

Meeting Date

SB932

Bill Number (if applicable)

Topic Time Share

Amendment Barcode (if applicable)

Name KAYIA HALL

Job Title SALES ASSOCIATE

Address 1709 MAINEN DR.

Phone 850-339-5053

Street

City Tallahassee FL

State

Zip 32308

Email

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against  
(The Chair will read this information into the record.)

Representing Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

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Duplicate

THE FLORIDA SENATE

# APPEARANCE RECORD

3-2-21  
Meeting Date

SB932  
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Time Sharing

Name Loren Sellner Sr

Job Title Retired

Address 64 Allen Harvey St

Street

Crawfordville FL

City

State

Zip

Phone 816-535-7635

Email \_\_\_\_\_

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against  
(The Chair will read this information into the record.)

Representing Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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**THE FLORIDA SENATE**

**APPEARANCE RECORD**

3-27-11

Meeting Date

SB932

Bill Number (if applicable)

Topic Time Sharing

Name Hailey McKnight

Job Title CSR

Address 26 Pine Crest  
Street

Crawfordville FL 32327  
City State Zip

Phone 850 570 3876

Email \_\_\_\_\_

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against  
(The Chair will read this information into the record.)

Representing Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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Duplicate

THE FLORIDA SENATE  
**APPEARANCE RECORD**

3-2-01

Meeting Date

SB 932

Bill Number (if applicable)

Topic Time Sharing

Amendment Barcode (if applicable)

Name Heidi McKnight

Job Title Homemaker

Address 64 Allen Harvey St.

Street

Crawfordville FL

City

State

Zip

Phone 850 901 8549

Email \_\_\_\_\_

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against  
(The Chair will read this information into the record.)

Representing \_\_\_\_\_

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

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Duplicate

THE FLORIDA SENATE

# APPEARANCE RECORD

March 2, 2021  
Meeting Date

SB 932

Bill Number (if applicable)

Topic Time Sharing

Name Anthony Miller

Job Title Director

Address 1165 N. Monroe St

Street

Tallahassee, FL 32303

City

State

Zip

Phone 850 445 6892

Email teaviny/god@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against  
(The Chair will read this information into the record.)

Representing Myself

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/11/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/2/21

Meeting Date

SB 932

Bill Number (if applicable)

Topic Minor Time-sharing for Registered Sexual

Name Brita Lincoln

Amendment Barcode (if applicable)  
Offenders / Sexual Predators

Job Title Legislation Committee

Address 1747 Orlando Central Pkwy

Street

Orlando

City

FL

State

32809

Zip

Phone 407-855-7604

Email bwillkinslincoln@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida PTA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

March 2, 2021  
Meeting Date

SB 932  
Bill Number (if applicable)

Topic Time Sharing

Name Renee Miller

Job Title Pastor

Address 1105 N MONROE ST. Tallahassee  
Street

Phone 850-631-2990

Tallahassee FL 32303  
City State Zip

Email Renee@citywalkmission.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against  
(The Chair will read this information into the record.)

Representing Myself

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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THE FLORIDA SENATE

# APPEARANCE RECORD

March 2, 2021  
Meeting Date

SB 932

Bill Number (if applicable)

Topic Time Sharing

Name David B. Dewitt

Job Title Maintenance

Address 427 Fairbanks  
Street

Tall FL 32304  
City State Zip

Phone 904-720-3563

Email \_\_\_\_\_

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against  
(The Chair will read this information into the record.)

Representing Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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March 2, 2021  
Meeting Date

THE FLORIDA SENATE  
**APPEARANCE RECORD**

SB 932  
Bill Number (if applicable)

Topic Time Sharing

Name STEVE NAGY

Job Title WAREHOUSE

Address 427 FAIRBANKS DR.  
Street

Phone \_\_\_\_\_

TALLAHASSEE FL 32304  
City State Zip

Email \_\_\_\_\_

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against  
(The Chair will read this information into the record.)

Representing SELF

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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March 2, 2021  
Meeting Date

THE FLORIDA SENATE  
**APPEARANCE RECORD**

SB 932  
Bill Number (if applicable)

Topic Time Sharing

Name Richard Curry

Amendment Barcode (if applicable)

Job Title Warehouse

Address 1109 Mahan Dr.  
Street

Phone 850-815-5830

Tallahassee Fl. 32303  
City State Zip

Email \_\_\_\_\_

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against  
(The Chair will read this information into the record.)

Representing Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

March 2, 2021  
Meeting Date

SB 932  
Bill Number (if applicable)

Topic Time Sharing

Amendment Barcode (if applicable)

Name Kathryn Kebison

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

Address 1000 W Brevard  
Street

Phone 727-787-0063

Tallahassee  
City State Zip

Email \_\_\_\_\_

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against  
(The Chair will read this information into the record.)

Representing Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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THE FLORIDA SENATE

APPEARANCE RECORD

3-2-21

Meeting Date

SB 932

Bill Number (if applicable)

Topic Time Sharing

Name Kathy Kellner

Job Title Warehouse

Address 1709 Mamee dr.  
Street

Phone 850-553-0308

Talk FL 32303  
City State Zip

Email \_\_\_\_\_

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against  
(The Chair will read this information into the record.)

Representing Self

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

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THE FLORIDA SENATE

APPEARANCE RECORD

3-2-21

Meeting Date

SB932

Bill Number (if applicable)

Topic Time Sharing

Amendment Barcode (if applicable)

Name Dana Frye

Job Title Receptionist

Address 22916 N. Settlers Blvd

Phone 850-274-9934

Tall.

City

Fl.

State

32303

Zip

Email \_\_\_\_\_

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against  
(The Chair will read this information into the record.)

Representing Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

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Duplicate

THE FLORIDA SENATE

APPEARANCE RECORD

3-2-21

Meeting Date

SB932

Bill Number (if applicable)

Topic Time Sharing

Amendment Barcode (if applicable)

Name Alexis Campbell

Job Title Social Media and Marketing Coordinator

Address 223 W 9th Avenue  
Street

Phone 880-570-0723

Tallahassee

City

FL

State

32303

Zip

Email lexi@citywalkmission.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against  
(The Chair will read this information into the record.)

Representing Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

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**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

3-2-21  
Meeting Date

SB 932  
Bill Number (if applicable)

Topic Time Sharing

Amendment Barcode (if applicable)

Name Hannah M<sup>c</sup> Knight

Job Title Realtor

Address 26 Pine Crest  
Street

Phone 850 408 2424

Crawfordville FL 32327  
City State Zip

Email \_\_\_\_\_

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against  
(The Chair will read this information into the record.)

Representing \_\_\_\_\_

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

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**THE FLORIDA SENATE**

**APPEARANCE RECORD**

3-2-21

Meeting Date

SB932

Bill Number (if applicable)

Topic Time Sharing

Amendment Barcode (if applicable)

Name David Dennis

Job Title Warehouse

Address 1709 Mahan  
Street

Phone N/A

Tallahassee FL 32303  
City State Zip

Email a/a

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against  
(The Chair will read this information into the record.)

Representing Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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

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BILL: CS/SB 932

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

SUBJECT: Minor Time-sharing for Registered Sexual Offenders and Sexual Predators

DATE: March 3, 2021

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

|    | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------|
| 1. | Moody   | Cox            | CF        | Fav/CS |
| 2. |         |                | CJ        |        |
| 3. |         |                | RC        |        |

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 932 amends s. 61.13, F.S., prohibiting courts from granting time-sharing with a minor child to a parent who has been convicted of or had adjudicated withheld for an offense enumerated in s. 943.0435(1)(h)1.a. and at the time of the offense:

- The parent was 18 years of age or older; and
- The victim was under 18 years of age or the parent believed the victim was under 18 years of age.

The bill provides an exception allowing the court to grant time-sharing when it makes written findings that the parent poses no significant risk of harm to the child and that time-sharing is in the child's best interest.

To the extent that this provision results in additional litigation related to the ability to have time-sharing rights, the bill may result in an increased workload on the state court system related to additional or more lengthy hearings and an indeterminate negative impact on parents who must pay additional legal fees related to such hearings. See Section V. Fiscal Impact Section.

The bill is effective July 1, 2021.

## II. Present Situation:

### Parental Rights

The interest of parents in the care, custody, and control of their children is a recognized fundamental liberty protected by the Due Process Clause of the Fourteenth Amendment to the United States Constitution. This fundamental liberty interest is rooted in the fundamental right of privacy from interference in making important decisions relating to marriage, family relationships, child rearing, and education.<sup>1</sup> The United States Supreme Court has explained the fundamental nature of this right is rooted in history and tradition:<sup>2</sup>

The history and culture of Western civilization reflect a strong tradition of parental concern for the nurture and upbringing of their children. This primary role of the parents in the upbringing of their children is now established beyond debate as an enduring American tradition.

The Florida Supreme Court has recognized that under Art. I, s. 23 of the Florida Constitution, parents have a fundamental liberty interest in determining the care and upbringing of their children.<sup>3</sup> These rights may not be intruded upon absent a compelling state interest.<sup>4</sup> According to the Florida Supreme Court, when analyzing a statute that infringes on the fundamental right of privacy, the applicable standard of review requires that the statute survive the highest level of scrutiny:<sup>5</sup>

The right of privacy is a fundamental right which we believe demands the compelling state interest standard. This test shifts the burden of proof to the state to justify an intrusion on privacy. The burden can be met by demonstrating that the challenged regulation serves a compelling state interest and accomplishes its goal through the use of the least intrusive means.

### Parental Time-Sharing

Parental time-sharing is the time, including overnights and holidays, which a minor child spends with each parent.<sup>6</sup> The Florida Supreme Court has recognized that a parent's right to time-

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<sup>1</sup> *Carey v. Population Svcs. Int'l*, 431 US 678, 684-685 (1977) (recognizing the right of privacy in personal decisions relating to marriage, family relationships, child rearing, and education); *See Wisconsin v. Yoder*, 406, U.S. 205, 232-33 (1972) (holding a state law requiring that children attend school past eighth grade violates the parents' constitutional right to direct the religious upbringing of their children); *See Parham v. J.R.*, 442 U.S. 584, 602 (1979) (recognizing the presumption that parents act in their children's best interest); *Meyer v. Nebraska*, 262 U.S. 390, 400-01 (1923) (affirming that the Constitution protects the preferences of the parent in education over those of the state); *Pierce v. Society of Sisters*, 268 U.S. 510, 534-35 (1925) (recognizing the right of parents to direct the upbringing of and education of their children).

<sup>2</sup> *Wisconsin v. Yoder*, 406, U.S. 205, 232 (1972).

<sup>3</sup> *Beagle v. Beagle*, 678 So. 2d 1271, 1272 (Fla. 1996) (holding a state law violated a parent's constitutional right to privacy by imposing grandparent visitation rights over objection of the parent without evidence of harm to the child or other compelling state interest).

<sup>4</sup> *Id. See, e.g., Shevin v. Byron, Harless, Schaffer, Reid & Assocs., Inc.*, 379 So. 2d 633, 637 (Fla. 1980) and *Belair v. Drew*, 776 So. 2d 1105, 1106 (Fla. 5th DCA 2001).

<sup>5</sup> *Winfield v. Division of Pari-Mutuel Wagering, Dept. of Bus. Regulation*, 477 So. 2d 544, 547 (Fla. 1985).

<sup>6</sup> *See s. 61.046(23), F.S.* The schedule may be developed and agreed to by the parents of a minor child and approved by the court or established by the court if the parents cannot agree or if their agreed-upon schedule is not approved by the court.

sharing is not absolute, and the Legislature may enact time-sharing policy when it affects the best interest of the child.<sup>7</sup> As a result of the constitutional right to a meaningful parent-child relationship, there must be competent, substantial evidence in the record that demonstrates that any restrictions or limitations on time-sharing are in the best interests of the child before those restrictions will be sustained.<sup>8</sup> Thus, where there is no evidence that the noncustodial parent is unfit, that extreme circumstances preclude visitation, or that visitation would adversely affect the welfare of the child, the trial court abuses its discretion in failing to provide visitation rights for that parent.<sup>9</sup> Moreover, restriction of visitation is generally disfavored, unless the restriction is necessary to protect the welfare of the child.<sup>10</sup>

Section 61.13(2), F.S., provides judges wide discretion in determining matters related to parenting and time-sharing of minor children in actions under ch. 61, F.S., in accordance with the best interests of the child, while balancing the rights of parents. The court is required to determine all matters relating to parenting and time-sharing of each minor child of the parties in accordance with the best interests of the child and in accordance with the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA).<sup>11</sup>

In establishing time-sharing, the court must make a determination of the best interests of the child by evaluating all of the factors affecting the welfare and interests of the particular minor child and the circumstances of that family, including, but not limited to the:

- Demonstrated capacity and disposition of each parent to facilitate and encourage a continuing parent-child relationship, honor the time-sharing schedule, and accommodate necessary changes.
- Anticipated division of parental responsibilities after the litigation, including the extent to which parental responsibilities will be delegated to third parties.
- Demonstrated capacity and disposition of each parent to determine, consider, and act upon the needs of the child.
- Length of time the child has lived in a stable environment and the desirability of maintaining continuity.
- Geographic viability of the parenting plan, with special attention paid to the needs of school-age children and the amount of time to be spent traveling to effectuate the parenting plan.
- Mental health, physical health, and moral fitness of the parents.
- Home, school, and community record of the child.
- Reasonable preference of the child.

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<sup>7</sup> *C.E.S. v. State, Dept. of Health and Rehabilitative Services*, 462 So. 2d 1160 (Fla. 2d DCA 1984); *Von Eiff v. Azicri*, 720 So. 2d 510 (Fla. 1998).

<sup>8</sup> *Perez v. Fay*, 160 So. 3d 459 (Fla. DCA 2015)

<sup>9</sup> *McArdle v. McArdle*, 753 So. 2d 696 (Fla. 4th DCA 2000); *Johnston v. Boram*, 386 So. 2d 1230 (Fla. 5th DCA 1980).

<sup>10</sup> See *Munoz v. Munoz*, 210 So. 3d 227 (Fla. 2d DCA 2017); *Davis v. Lopez-Davis*, 162 So. 3d 19 (Fla. 4th DCA 2014); *Culbertson v. Culbertson*, 90 So. 3d 355 (Fla. 4th DCA 2012); *Grigsby v. Grigsby*, 39 So. 3d 453 (Fla. 2d DCA 2010).

<sup>11</sup> Section 61.13(2)(c), F.S. The UCCJEA was developed by the Legal Resource Center on Violence Against Women, the National Center on State Courts, and the National Council of Juvenile and Family Court Judges (NCJFCJ) to address jurisdictional and enforcement issues in child custody cases. The NCJFCJ, *Uniform Child Custody Jurisdiction and Enforcement Act: Guide for Court Personnel and Judges*, July 18, 2018, available at <https://www.ncjfcj.org/publications/uniform-child-custody-jurisdiction-and-enforcement-act-guide-for-court-personnel-and-judges/> (last visited March 3, 2021).

- Demonstrated knowledge, capacity, and disposition of each parent to be informed of the circumstances of the minor child, including, the child's friends, teachers, and daily activities.
- Demonstrated capacity and disposition of each parent to:
  - Provide a consistent routine; and
  - Communicate with and keep the other parent informed of issues and activities regarding the minor child, and the willingness of each parent to adopt a unified front on all major issues when dealing with the child.
- Evidence of domestic violence, sexual violence, child abuse, child abandonment, or child neglect, or that either parent has ever knowingly provided false information about such matters.
- Particular parenting tasks customarily performed by each parent, including the extent to which parenting responsibilities were undertaken by third parties.
- Demonstrated capacity and disposition of each parent to participate and be involved in the child's school and extracurricular activities.
- Demonstrated capacity and disposition of each parent to maintain an environment for the child which is free from substance abuse.
- Capacity and disposition of each parent to protect the child from the ongoing litigation regarding child custody.
- Developmental stages and needs of the child and the demonstrated capacity and disposition of each parent to meet the child's developmental needs.<sup>12</sup>

Currently, Florida law does not expressly prohibit a sex offender or sexual predator from exercising time-sharing with his or her minor child unless there is a court order to the contrary.

Although current law requires the court to acknowledge in writing when it considers evidence of sexual violence in evaluating the best interests of the child, it is possible to be classified as a sexual offender without committing a violent sexual act. Therefore, under current law, a sexual offender who has not committed a violent sexual act may still be entitled to time-sharing with a minor child.

### ***Termination of Parental Rights***

Section 39.806, F.S., authorizes the DCF to file a petition for termination of parental rights (TPR) against both parents when they fail to remedy the family problems that brought a child into the dependency system.<sup>13</sup> Alternatively, the DCF may move to terminate only one of the parent's rights if it can prove certain grounds, such as incarceration, egregious conduct, chronic substance abuse, the conception of the child as a result of sexual battery, a conviction requiring the parent to register as a sexual predator, or an incarcerated parent who the court determined is a sexual predator in s. 775.084, F.S., or committed a sexual battery that constitutes a capital, life, or first degree felony in violation of s. 794.011, F.S.<sup>14</sup>

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<sup>12</sup> Section 61.13(3), F.S.

<sup>13</sup> Section 39.8055, F.S.

<sup>14</sup> Section 39.806, F.S.

## Sexual Offenses

Sexual offenses enumerated under s. 943.0435(1)(h)1.a., F.S., include:

- Sexual misconduct with a person having a developmental disability (s. 393.135(2), F.S.);
- Sexual misconduct with a mental health patient by an employee (s. 394.4593(2), F.S.);
- Specified violations of kidnapping or falsely imprisoning a minor (s. 787.01 or s. 787.02, F.S.);<sup>15</sup>
- Luring or enticing a child, by a person with a prior sexual conviction (s. 787.025(2), F.S.);
- Human trafficking for commercial sexual activity (s. 787.06(3)(b), (d), (f), or (g), F.S.);
- Sexual battery (s. 794.011, excluding s. 794.011(10), F.S.);
- Unlawful sexual activity with a minor (s. 794.05, F.S.);
- Lewd or lascivious battery, molestation, conduct, or exhibition (s. 800.04, F.S.);
- Video voyeurism, involving a minor victim (s. 810.145(8), F.S.);
- Lewd or lascivious offense on an elderly or disabled person (s. 825.1025, F.S.);
- Sexual performance by a child (s. 827.071, F.S.);
- Providing obscene materials to a minor (s. 847.0133, F.S.);
- Computer pornography involving a minor (s. 847.0135(2), F.S.);
- Soliciting a minor over the Internet (s. 847.0135(3), F.S.);
- Traveling to meet a minor (s. 847.0135(4), F.S.);
- Lewd or lascivious exhibition over the Internet (s. 847.0135(5), F.S.);
- Transmitting child pornography by electronic device or equipment (s. 847.0137, F.S.);
- Transmitting material harmful to a minor by electronic device (s. 847.0138, F.S.);
- Selling or buying a minor to engage in sexually explicit conduct (s. 847.0145, F.S.);
- Racketeering involving a sexual offense (s. 895.03, F.S.);
- Sexual misconduct with a forensic client (s. 916.1075(2), F.S.); and
- Sexual misconduct by an employee with a juvenile offender (s. 985.701(1), F.S.).

### *Florida's Sexual Predator and Sexual Offender Registration Laws*

Florida law requires registration of any person who has been convicted or adjudicated delinquent of a specified sex offense or offenses and who meets other statutory criteria that qualify the person for designation as a sexual predator or classification as a sexual offender.<sup>16</sup> The registration laws also require reregistration and provide for public and community notification of certain information about sexual predators and sexual offenders. The laws span several different chapters and numerous statutes<sup>17</sup> and are implemented through the combined efforts of the Florida Department of Law Enforcement (FDLE), all Florida sheriffs, the Department of Corrections (DOC), the Department of Juvenile Justice (DJJ), the Department of Highway Safety & Motor Vehicles, and the Department of Children and Families (DCF).

<sup>15</sup> However, the Florida Supreme Court has held there must be a sexual element to the kidnapping or false imprisonment when the victim is a minor. *State v. Robinson*, 873 So. 2d 1205 (Fla. 2004).

<sup>16</sup> Sections 775.21 and 943.0435, F.S.

<sup>17</sup> Sections 775.21-775.25, 943.043-943.0437, 944.606, 944.607, and 985.481-985.4815, F.S.

A person is designated as a sexual predator by a court if the person:

- Has been convicted of a qualifying capital, life, or first degree felony sex offense committed on or after October 1, 1993;<sup>18</sup>
- Has been convicted of a qualifying sex offense committed on or after October 1, 1993, and has a prior conviction for a qualifying sex offense; or
- Was found to be a sexually violent predator in a civil commitment proceeding.<sup>19</sup>

A person is classified as a sexual offender if the person:

- Has been convicted of a qualifying sex offense and has been released on or after October 1, 1997, from the sanction imposed for that offense;
- Establishes or maintains a Florida residence and is subject to registration or community or public notification in another state or jurisdiction or is in the custody or control of, or under the supervision of, another state or jurisdiction as a result of a conviction for a qualifying sex offense; or
- On or after July 1, 2007, has been adjudicated delinquent of a qualifying sexual battery or lewd offense committed when the juvenile was 14 years of age or older.<sup>20</sup>

Requirements for registration and reregistration are similar for sexual predators and sexual offenders, but the frequency of reregistration may differ.<sup>21</sup> Registration requirements may also differ based on a special status, e.g., the sexual predator or sexual offender is in the DOC's control or custody, under the DOC's or the DJJ's supervision, or in a residential commitment program under the DJJ.

Sexual predators and sexual offenders are required to report at registration and reregistration certain information, including but not limited to, physical characteristics, relevant sex offense history, and information on residence, vehicles/vessels owned, and travel. The FDLE, through its agency website, provides a searchable database that includes some of this information.<sup>22</sup> Further, local law enforcement agencies may also provide access to this information, such as providing a link to the state public registry webpage.

<sup>18</sup> Examples of qualifying sex offenses are sexual battery by an adult on a child under 12 years of age (s. 794.011(2)(a), F.S.) and lewd battery by an adult on a child 12 years of age or older but under 16 years of age (s. 800.04(4)(a), F.S.).

<sup>19</sup> Section 775.21(4) and (5), F.S. The Jimmy Ryce Involuntary Civil Commitment for Sexually Violent Predators' Treatment and Care Act, part V, ch. 394, F.S., provides for the civil confinement of a group of sexual offenders who, due to their criminal history and the presence of mental abnormality, are found likely to engage in future acts of sexual violence if they are not confined in a secure facility for long-term control, care, and treatment.

<sup>20</sup> Sections 943.0435(1)(h) and 985.4815(1)(h), F.S. Sections 944.606(1)(f) and 944.607(1)(f), F.S., which address sexual offenders in the custody of or under the DOC's supervision, also define the term "sexual offender."

<sup>21</sup> All sexual predators, sexual offenders convicted for offenses specified in s. 943.0435(14)(b), F.S., and juvenile sexual offenders required to register per s. 943.0435(1)(h)1.d., F.S., for certain offenses must reregister four times per year (on the birth month of the sexual predator or qualifying sexual offender and every third month thereafter). Sections 775.21(8)(a), 943.0435(14)(b), 944.607(13)(a), and 985.4815(13)(a), F.S. All other sexual offenders are required to reregister two times per year (on the birth month of the qualifying sexual offender and during the sixth month following the sexual offender's birth month). Section 943.0435(14)(a), F.S.

<sup>22</sup> The FDLE is the central repository for registration information. The department also maintains the state public registry and ensures Florida's compliance with federal laws. The Florida sheriffs handle in-person registration and reregistration. The FDLE maintains a database that allows members of the public to search for sexual offenders and sexual predators through a variety of search options, including name, neighborhood, and enrollment, employment, or volunteer status at an institute of higher education. See <http://offender.fdle.state.fl.us/offender/Search.jsp> (last visited on March 3, 2021).

### III. Effect of Proposed Changes:

The bill amends s. 61.13, F.S., prohibiting a court from granting a parent time-sharing with his or her minor child if the parent has been convicted or had adjudication withheld for an offense enumerated in s. 943.0435(1)(h)1.a., F.S. and at the time of the offense:

- The parent was 18 years of age or older; and
- The victim was under 18 years of age or the registrant believed the victim to be under 18 years of age.

However, the court may grant time-sharing if it makes a specific finding in writing that the parent poses no significant risk of harm to the child and that time-sharing is in the best interest of the child.

The bill is effective July 1, 2021.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

#### D. State Tax or Fee Increases:

None.

#### E. Other Constitutional Issues:

The Florida Supreme Court has recognized that under Art. I., s. 23 of the Florida Constitution, parents have a fundamental liberty interest in determining the care and upbringing of their children. However, the Court has also recognized that a parent's right to time-sharing is not absolute, and the Legislature may enact time-sharing policy when it affects the best interest of the child.<sup>23</sup>

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<sup>23</sup> *C.E.S. v. State, Dept. of Health and Rehabilitative Services*, 462 So. 2d 1160 (Fla. 2d DCA 1984); *Von Eiff v. Azicri*, 720 So. 2d 510 (Fla. 1998).

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

None.

**B. Private Sector Impact:**

The bill provides that the prohibition on grating time-sharing in specified instances to a parent does not apply if the court makes a specific finding in writing that the parent poses no significant risk of harm to the child and that time-sharing is in the best interest of the child. To the extent that this provision results in additional litigation related to the ability to be granted time-sharing rights, the bill may result in both parents involved in parenting plans and time-sharing agreements paying additional legal fees to litigate related to the time-sharing rights of the minor child or children.

**C. Government Sector Impact:**

The bill provides that the prohibition on grating time-sharing in specified instances to a parent does not apply if the court makes a specific finding in writing that the parent poses no significant risk of harm to the child and that time-sharing is in the best interest of the child. To the extent that this provision results in an increased workload to the courts from additional or more extensive hearings to make such determinations, the bill may result in an indeterminate negative fiscal impact on the state court system.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 61.13 of the Florida Statutes.

**IX. 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 2, 2021:**

The committee substitute amends the bill to prohibit time-sharing with a minor child if the parent is convicted of or had adjudicated withheld for an offense enumerated in s. 943.0435(1)(h)1.a., F.S., rather than prohibiting time-sharing if a parent is required to register as a sexual offender under s. 943.0435, F.S., or a sexual predator under s. 775.21, F.S.

B. Amendments:

None.

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

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